

City of Rochester Planning Board

Monday, January 08, 2024

City Hall Council Chambers

31 Wakefield Street, Rochester, NH 03867

(These minutes were approved on February 5, 2024)

Members Present

Mark Collopy, *Chair*

Robert May, *Vice Chair*

Donald Hamann

Matthew Richardson

Alan Dews

James Hayden

Peter Bruckner

Members Absent

Michael McQuade, excused

Alternate Members Present

Rick Healey

Staff: Jaclyn Millard, *Administrative Assistant II of Planning & Development*

(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. They may be copied for a fee.)

I. Call to Order

The Chair called the meeting to order at 6:30 p.m.

II. Roll Call

Planning Department Administrative Assistant II, Jaclyn Millard, conducted roll call.

III. Seating of Alternates

There was no seating of alternates.

IV. Communications from the Chair

There were no communications from the Chair.

V. Approval of Minutes

A. December 11, 2023

A motion was made by Mr. Hamman to approve the December 11, 2023, Planning Board meeting minutes and seconded by Mr. May. The motion carried unanimously.

VI. Opening Discussion/Comments

A. Public Comment

The Chair opened the public comments, explaining it's an opportunity for members of the public to address any general planning issues to the Planning Board.

Anne Carter of 6 Blue Hills Drive commented on the 15 Piper Lane Blue Hills subdivision development (M250-L28) at the end of her street. She said she is following up on some questions and points she's made over the past year that have not been addressed. Specifically, she expressed concern about the subdivision not being in compliance with deed restrictions.

Displaying a poster board with photos of the development, she pointed to an 860 square foot building that will remain on the property. Although the subdivision plans list this property as a duplex, per the tax records going back to 2001, that property is a single unit with two buildings.

She explained that this is important because the deed (SCR book 1174 page 59) has only five covenants and restrictions that must continue no matter the owner of the land. These restrictions only allow a single building per lot. However, a few properties with duplexes, including this one, were grandfathered into the deed covenants. She explained she has been asking, "Shouldn't that be corrected to meet with the deed requirements? Otherwise, doesn't that create further noncompliance?"

She then pointed to a photo of another supposed structure that is listed as a duplex but is, according to tax records, a six-bedroom with four connecting units.

Next, Ms. Carter expressed concern that the SCR Book 1174 Page 59 Towle Deed Setback #3 Restrictions are still not reflected on plans drawings even though a two-foot angle adjustment has been on the plans since November 2022. This restriction states that no building shall be within 15 feet of any side lot line nor within 25 feet of the boundary line on the road. Despite Joel Runnals stating in the December 5, 2022, Planning Board meeting, that adjustments had been made to meet these restrictions, all the plans show that the setbacks are still at 20 feet and 10 feet instead of the required 25 and 15.

B. Discussion of general planning issues

There were no general planning issues to discuss.

VII. Extension Applications:

A. [Real Estate Advisors, Jeremiah Lane](#) Extension request to meet General and Subsequent conditions Case# 223 – 21 – A – 16 to December 16, 2024

Hunter Adams presented this case on behalf of owner Walter Cheney. He stated they are applying for a third extension on this property and that they understand that is more than usual. They are still working on it. They are trying to either sell it because they don't have the upfront capital to deal with the intersection and long road to get to the houses. They are currently working with an engineer to do something different with the plan. They would like the plan extended because they are going to keep the roadway the same. They would keep the Franklin and Portland intersection improvements intact as long as the subdivision is approved. He believes there have been no zoning changes that would make the subdivision out of compliance at this point. So, it would presumably pass.

The Chair asked if the Board had any questions.

Mr. May stated he isn't sure why they need the third extension. He stated he is disinclined to approve it but would like input from staff.

Ms. Millard explained recently they had gone to the Zoning Board for review of possible multi-family in that area, but due to it being agriculture, the Zoning Board found there was not a hardship, so they denied the application. Ms. Saunders has been working with the applicant, Mr. Cheney and his engineer on options for this property and application. But they do not have any updated information. Ms. Saunders is hoping to meet with Mr. Cheney soon.

Mr. Dews stated he would feel better with just doing 90 days. He explained that if they keep kicking this can down the road, it could result in a can of worms they don't want to open.

Mr. May asked if they have the option of continuing this case until the next meeting.

The Chair stated that a year extension is too long for his tastes but that 90 days might be a little too short. He stated it would have been nice to have someone like Mr. Berry there to give them an idea of what they are talking about for changes. He explained that Jeremiah Lane has been a long process and that when it finally got approved it was a stretch in some respects. However, they went with it and now are asking for another year extension, which is long.

Mr. Healey pointed out that the third extension usually means the last extension. He asked if the changes will be an amendment.

Ms. Millard replied that yes, they would need to come back to the Planning Board for an additional amendment. She explained that the application on which they are asking for an extension is itself an amendment that was approved back in 2019. So, the Notice of Decision and conditions that were on that application and approved are from 2019.

Mr. Healey asked that since this is the third extension on this amendment, if they come back with the adjusted plans under another amendment, does that reset the timing?

Ms. Millard replied that she believes it does but can double check with Ms. Saunders. Since this application was originally submitted in 2016, it is about to expire if it hasn't expired already. So, that new application would start a new process of being able to move forward with further extensions.

Mr. Healey stated he is not in favor of a whole year. But he would be in favor of six months since right now is not the best time to be out there and six months goes into the summer.

Mr. Dews wondered if two weeks would make that big of a difference since the deadline has come and gone. He would like input from Ms. Saunders on that.

Ms. Millard replied that the next meeting is a retreat and that she is not sure if applications will be reviewed then. So, the next regular meeting will be February 5.

The Chair and Mr. Hayden suggested continuing the application until February 5, 2024. Mr. Hayden explained that they should find out more about the proposed changes before setting a deadline on the extension. For example, if the changes are engineering-related, more than 90 days will be needed. So, he doesn't want to pigeon-hole the applicant into a tight deadline.

Mr. Richardson asked if it has still been in the engineering phase since 2016 than nothing has been done on site?

Mr. Adams confirmed that nothing has been done.

Mr. Richardson responded that he would not be in favor of a third extension for another year. He would be in favor of a deadline closer to six months and of waiting to hear more details and postponing it until next month.

The Chair asked Mr. Adams if someone could come on February 5. Mr. Adams replied that he could have Mr. Berry, who was unavailable for this meeting.

The Chair stated they need more substantial information that Ms. Saunders could provide since she has history with this case. He asked if the property is up for sale right now.

Mr. Adams replied that they had it listed for a year or two then now they've only been in private negotiations.

Mr. May clarified the motion was not to vote on the merits of the extension request, but to put it off until February 5, 2024, hopefully with more input from staff and the applicant.

A motion was made by Mr. Dews and seconded by Mr. Hamann to continue the extension request to February 5, 2024. The motion carried unanimously.

The Chair asked Mr. Adams to make sure they are on the agenda for February 5, 2024.

VIII. Review of Inspections for October 2023

Ms. Millard explained that due to DPW being understaffed, all inspections are a little behind. The Planning Department itself has been unable to conduct inspections. Some have been completed for November but at this time they were not ready to go.

The Chair asked if the Board had any questions. The Board had no questions.

IX. Review of Surety for December 2023

Ms. Millard stated she has been working on the completed applications to see which ones she can return money to or release bonds to. Three are being reviewed for release tonight. Six more are pending waiting for as-builts and different information. So, the Board will see more releases coming up in the future.

The Chair asked if any contact had been made on the Lydall Performance Materials. Ms. Millard replied that at this time they don't know who the point of contact is to release their surety.

X. Release of Surety

- A.** Accolade Towers, LLC / John Kenney, Surety release for Cell Tower Removal Bond # 017-011-208 (100%) in the amount of \$10,000.00. Located at 80 Dry Hill Road

Mr. May asked if the reason why they are releasing this is pursuant to State law that states they are no longer allowed to keep surety for cell towers falling over and being removed. He added that he has no problem releasing it.

Ms. Millard confirmed that is correct, per RSA 12 K11.

A motion was made by Mr. Bruckner and seconded by Mr. Hamann to release the surety. in the sum of \$10,000. The motion carried unanimously.

- B.** Motor City Automotive Group / Ryan Eschbach, Surety Bond Release for construction of building addition (100%) in the amount of \$6,667.00. Located at 154 Farmington Road

A motion was made by Mr. Dews and seconded by Mr. Hamann to release the surety in the sum of \$6,667.00. The motion carried unanimously.

- C.** Cornerstone VNA, Cash Surety Release for construction of building addition (100%) in the amount of \$5,013.44 plus interest. Located at 178 Farmington Road

A motion was made by Mr. Hamman and seconded by Mr. Dews to release the surety in the sum of \$5,013.44 plus interest. The motion carried unanimously.

XI. Other Business

A. Planning Update

Ms. Millard shared that the retreat will be taking over the Planning Board's scheduled workshop meeting on January 22, 2024. They are unsure of the location at this time. It will be in joint with the Zoning Board to give both Boards a chance to go over updates and ask questions to the New Hampshire Municipal Association lawyer. Food will be provided.

The Chair asked what time it starts. Ms. Millard replied she believes it will start at the usual meeting time, 6:30 pm, but added once they know where they will be able to give them the when.

Mr. Dews asked what is happening with the landscaping place in violation on Milton Road. He added that it doesn't look like anything has changed.

Ms. Millard replied that if it's the business around 89 Milton with a lot of construction equipment on it, Ms. McIsaac and Ms. Saunders have contacted them for a status and to reinforce what has been discussed through the courts. The Chair added they are now selling cars in front of it. Mr. Richardson added it is the owner's equipment that is up for sale.

B. Other

There was no other business.

XII. Adjournment

A motion was made by Mr. Hamman and seconded by Mr. Dews to adjourn the meeting at 6:57 pm. The motion carried unanimously.

Respectfully submitted,

Davinna J. Artibey,
Temporary Planning Administrator

and

Shanna B. Saunders,
Director of Planning & Development