

**CITY OF ROCHESTER
Planning Board**

Monday, June 1, 2009 at 7:00 p.m. (regular meeting)

City Council Chambers

31 Wakefield Street, Rochester, NH 03867

(These minutes were approved June 15, 2009)

Members Present

A. Terese Desjardins, *Chair*
Tim Fontneau, *Vice Chair* (arrived at 7:02)
Nel Sylvain, *Secretary*
Rick Healey
John David Meader
Derek Peters

Members Absent

Tom Abbott (Excused)
Richard Groat (Excused)
Eugene McCarthy (Excused)

Alternates Present

Gloria Larochelle
Ray Varney

Staff: Michael Behrendt, Chief Planner
Madeleine Carter, Secretary

(These minutes are the legal record of the meeting and are in the format of an overview of the meeting. It is neither represented nor intended to be a true transcription 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).

Ms. Desjardins called the meeting to order at 7:00 p.m. The secretary conducted roll call.

Communications from the Chair

Ms. Desjardins appointed Ms. Larochelle as voting member for Mr. Groat.

Ms. Desjardins stated there are two extensions that were given to us tonight for the June 18th meeting; she asked Board members if anyone had any objections on voting on the following 2 items as part of tonight's Consent Agenda.

1. Brian Boudreau & Charles Clement, III, Silver Street. Extension to (December 15, 2009) meet precedent conditions for 3-lot subdivision. Case # 120-200-R2-08.
2. Jeffery & Catherine Taylor, Salmon Falls Road. Extension to (August 1, 2009) meet precedent condition on 2-lot subdivision. Case # 224-9-A-09.

No one objected.

A motion was made by the Ms. Desjardins and seconded by Mr. Sylvain to accept voting on the above two extensions as part of the Consent Agenda. Motion carried unanimously.

Approval of minutes for May 18, 2009

A motion was made by the Mr. Healey and seconded by Mr. Peters to approve the minutes of May 18, 2009. Motion carried unanimously.

Item A was taken off for discussion.

Consent Agenda:

A. Salvelinus, Inc., c/o J. Grossman, 249 Blackwater Road (by Norway Plains Associates). Extension to (July 19, 2009) meet precedent conditions for 6-lot subdivision. Case # 263-25-A-07

Mr. Healey stated he just wanted to clarify a typo on the Staff recommendations for the deadline dates. It states on the last two bulleted items that the dates are May 19, 2008, those should be May 19, 2009.

Board members discussed how many extensions were going to be given.

Mr. Behrendt stated this one was the fault of the Staff. He stated the former Staff Planner was reviewing this until the budget cuts eliminated that position. He stated that is when it was handed over to him and it simply got misplaced and lost track.

Board members discussed extending the requested extension to September 19, 2009.

A motion was made by Mr. Healey and seconded by Mr. Sylvain to approve altering this extension to September 19, 2009; this would also be their last extension. Motion carried unanimously.

B. 119 Flagg Rd. Development, LLC. / Gail Curley, 30 & 36 Trinity Circle. (by Norway Plains Associates). Lot Line Revision. Case # 259-36-4 & 36-5-A-09 (PH)

A motion was made by Mr. Peters and seconded by Mr. Meader to approve the Consent Agenda. Motion carried unanimously.

New Applications/Extension:

A. James Stock Jr., 11 Jarvis Avenue. (by Norway Plains Associates). Site plan for three mini-storage buildings (total of 9,100 square feet). Case # 215-62-12-08 **(PH)**

Art Nickless, Norway Plains Associates, stated there have been several iterations for this. He discussed the plans that were being viewed on the screen that included permeable (aka pervious or porous) asphalt, which this would be the first site in Rochester to use this application. He stated a professor at the UNH Stormwater Center has been reviewing this permeable concept. He briefly discussed the encroachment of the buffer and other proposals.

Mr. Behrendt stated Jeff Winders, Conservation Commission member, had discussed at the TRC meeting whether it was appropriate to avoid filling in a "finger" of wetland on the left side of the building with a proposed dredge and fill. He stated if that were not filled there would not be circulation around the center building. There would still be some access above and below it. He stated the Fire Department would like to have circulation around the building. In many cases it is not possible and the Fire Department would accept this and would not require it be paved on all sides.

Mr. Nickless stated all the information is in and would like the Board to accept this as complete. He stated the Fire Department at the time wanted access around the building. He stated there would be a row of units on the backside of the building, which would require access. He stated this is not Heath Bog; this is just a small wooded wetland. He discussed minimizing the wetland, the porous pavement, the cross section, the under drain not collecting anything, run off that would naturally seep out through the sides, and other items.

Board members and Mr. Nickless discussed what the buildings might look like.

Mr. Fontneau stated he believed this is a reasonable plan.

Mr. Nickless stated the buildings would be single story metal buildings like Sunrise Storage up on Cross Road.

Mr. Peters stated he believes this would be the best use of the area with minimal impact to Heath Bog.

Ms. Desjardins opened the public hearing.

Jeff Winders, representing the Conservation Commission, stated the problem is filling the wetlands with pervious surface. He discussed the pervious surface, setting a precedent, it is a problem site, filling in the wetlands, rules and regulations for wetlands, 25 foot reduction of the buffer, having just one side with bigger units, conversations with Dori Wiggin of the NH-DES, and other issues and items. He stated there have been discussions with the TRC. The Commission is not looking to defeat the project. He asked the Board to hear what Ms. Wiggin has to say.

John Bourque, Milton Road, stated he has no objections to this project.

Board members discussed looking at the minutes from the Conservation Commission discussions.

Mr. Nickless stated the runoff from the roof would be pitched both ways and there would be no increase in volume.

A motion was made by Mr. Sylvain and seconded by Mr. Healey to accept this application as complete. Motion carried unanimously.

A motion was made by Mr. Fontneau and seconded by Mr. Peters to close the public hearing. Motion carried unanimously.

This application was continued to the June 15th, 2009 meeting.

B. Joel Thone, 201 South Main Street. (by Norway Plains Associates). Site plan to expand parking area for Chiropractic Office. Case # 126-97 & 98-R1-09 (PH)

Art Nickless, Norway Plains Associates, discussed the plans that were being viewed on the screen that included parking on Richardson Street, the 15-foot right-of-way, 4,033 square feet of paving for the additional parking area, the catch basin for runoff, and Glenn Weismantel and George Pelletier (abutters) property.

Mr. Behrendt discussed the Staff's recommendations and his discussions with Mr. Weismantel and Dr. Joel Thone. He stated he went out to inspect the site and found a great deal of activity with nothing being submitted to the Planning Department. He stated Dr. Thone then came into the office and submitted an application. He stated Mr. Weismantel has provided written concerns and photos during the site construction. He discussed a variance for parking. He stated the work has appeared to be fairly executed.

Ms. Desjardins stated a few of the Board members did not receive this application in their packets. She stated it does dishearten her to find out that Dr. Thone went ahead and did something without following the procedures that have already been established in the City. She stated she is not sure why that happened, but at this point there is not much the Board could do about that except take a close look and make sure that we are following the process from this point on as diligently as possible.

Board members discussed getting something in writing from the City Council regarding the City property, specifically their thoughts and ideas on parking and the easements, getting a variance, the abutting lots, the 15-foot right-of-way, and other items and concerns.

Board members and Mr. Nickless discussed the plans that were being viewed on the screen that included the condition of the 10 foot buffer, the 15-foot right-of-way, impacting two parking spaces, the wetland, the proposed guardrail, installing a stockade fence, the setbacks, the catch basin pipe, what the process might be for the next few months, and other items.

Ms. Desjardins opened the public hearing.

Tom Couture, Richardson Street, (not an abutter) stated the City took some of Dr. Thone's parking away to widen South Main Street. He discussed the safety of coming out of Richardson Street, and other items.

Dr. Thone stated, just for the record, "Michael you asked me kindly not to go forward you did not distinctly tell me not to". He stated under the advice of counsel he was told he could improve his lot line, which he did with a retaining wall. He stated the drainage was OK'd by Tom Willis, Public Works Department, which Mr. Willis said was a very good plan. He stated he put in the existing guardrail on his lot line knowing full well that the Board might tell him to remove it. He stated he has heard that he has broken the law and have gone against the Board. He stated he did not intentionally do so. He stated the wall does direct water away from Mr. Weismantel's property. He stated many times water has flowed off the hill and literally filled his basement. He stated leveling his lot has solved a large part of his problems as well as the neighborhood. He stated he is pleased with what has happened. He stated Mr. Willis told him he is happy Dr. Thone has stepped up to the plate done a very nice job and has no problem with the water drainage. He stated he was told he did not need the approval of this Board to do this. He stated he is prepared to take the fence down if the Board says to.

Board members and Dr. Thone discussed the parking spaces he had lost which was 6 he now only has 2.

Mr. Behrendt discussed the variance, getting guidance from the City Council, doing a site walk, and other items. He read in the ordinance concerning non-conforming use.

Mr. Nickless discussed getting an opinion from the Code officer for the expansion of use.

Board members discussed getting something in writing from Mr. Willis, and avoid getting a variance.

Mr. Behrendt stated he would speak to Mr. Willis.

Board members discussed having the abutter and Dr. Thone do the conversing over the fence issue.

Mr. Nickless discussed getting a formal letter of intent to the City Manager so this application could be on the City Council's agenda.

Ms. Desjardins stated she wanted it on record that the issue of the fence would be between the applicant and abutters.

This application was continued to July 20, 2009 meeting.

C. Cleary Cleaning Inc., 185 Charles Street. Extension to install handicap entrance for drop off and pick up center. Case # 132-47-B2-08

Board members and Mr. Behrendt discussed whether or not to take no action or to deny this extension; within a month or two the same thing is going to happen. Board members also discussed the “ADA” steps, the fact that no work has been done, the extension for three of the issues which is July 31st, noting nothing has been done on the handicap access.

Mr. Varney stated what would happen after July 31st is they would be in violation and perhaps they would get a notice which would probably give them about 30 days to take corrective action. Now they are out to August before anything happens. That is more than enough time to finish these things and is within the timeframe they have asked for.

A motion was made by Mr. Healey and seconded by Mr. Sylvain to deny the request for extension. Motion carried unanimously.

Continued discussion of proposed Capital Improvements Program (CIP)

Discussions included the following

- Page 75, Public Works Department contribution
- Page 107, it is the school’s responsibility for the food service equipment
- Receiving CIP information in April when the City Council receives theirs
- Moving the Salmon Falls project up

Mr. Peters thanked Mr. Behrendt for getting the questions answered so members could review them.

Ms. Desjardins asked to have electronic copies or hard copies for members that wish hard copies sent to Board members when Mr. Behrendt sends communication to the City Council.

Other Business:

Trinity Conservation, LLC, Flagg Road. (by Norway Plains Associates). 58-lot subdivision. Case # 259-36-A-05

Art Nickless, Norway Plains Associates, discussed the 58-lots with the duplex buildings, which is referred to as condexes. He held up a drawing describing the proposed lot line between units “A and B”. He stated condos are not very well received right now. The mortgage world right now will not insure condexes, and require 20 percent up front. He discussed proposing a zero lot line, changing the form of ownership, people who buys a unit would also buy that side of the lot, owners getting a blanket variance, and other items. He stated nothing would change.

Mr. Behrendt stated Staff believes this makes sense. He stated this is a relief that could be granted and nothing would change. He stated we do want to be careful about setting a precedent.

Board members discussed what might happen to existing owners.

Mr. Nickless stated they would not incur any additional expense.

Mr. Healey stated this would signal a precedent and City Council would not be in favor.

Mr. Behrendt discussed exploring it as a zoning amendment.

Board members discussed specific guidelines, opening up a can of worms that should not be opened.

Mr. Nickless stated he would go back to his client and discuss with him what the next step should be.

Other business discussions included:

- 153 North Main Street Rochester Tire variance
- Attorney Generals requirements / surety
- Minor Site application for 174 Milton Road. Need more specifics on what kind of trucks and getting a picture of what type of truck is intended
- One Board member requested the Minor Site be bumped to full Board review

Adjournment:

*A motion was made Mr. Fontneau and seconded by Mr. Peters to adjourn at 8:55 p.m.
Motion carried unanimously.*

Respectfully submitted,

Madeleine Carter, Secretary

(These minutes were transcribed from notes)