

CITY OF ROCHESTER

Planning Board

Monday, November 2, 2009 at 7:00 p.m. (regular meeting)

City Council Chambers

31 Wakefield Street, Rochester, NH 03867

(These minutes were approved November 16, 2009)

Members Present

A. Terese Desjardins, *Chair*

Tim Fontneau, *Vice Chair*

Nel Sylvain, *Secretary*

Tom Abbott

Rick Healey

Eugene McCarthy

John David Meader

Derek Peters

Members Absent

Richard Groat (Excused)

Alternates Present

Gloria Larochele

Stephen Martineau

Ray Varney (arrived at 7:05)

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.

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

Mr. Fontneau and Board members welcomed Ms. Desjardins back from sick leave.

Communications from the Chair

Ms. Desjardins asked to be excused if she overlooks some procedural processes and to give her gentle reminders because she has not been up to snuff on everything being absent for the past 3 months.

Ms. Desjardins asked Mr. Peters to give an update on the Recreation Committee Meetings that he is on.

Mr. Peters stated they have had 2 meetings and the RFQ has been sent out. He stated it is due to close on December 3rd, with the bids opened that day. The committee will pick up their packets on the 4th, with a couple of weeks to review. He stated they will be meeting on the 16th to start putting a list together on who they want to interview. He stated they hope to start the first week in January and make their selection shortly after that, and start the process. He stated they would probably not have another update until January.

Ms. Desjardins stated she is changing the order of the agenda. She stated item H will be heard right after item C. She stated she wanted to discuss the two Brock Street projects together.

Approval of minutes for October 19, 2009.

A motion was made by the Mr. Sylvain and seconded by Mr. Healey to approve the minutes of October 19. Motion carried unanimously.

New Applications:

A. David Holbrook, 33 Dry Hill Road (by Norway Plains Associates).
2-lot subdivision. Case # 250-5-A-09 (PH)

Art Nickless, Norway Plains Associates, discussed the plans that were being viewed on the screen that included the 13 ½ acre lot which he stated has significant wetlands on the property. He discussed the wetlands buffer, the building setback, and other items. He stated this has been presented as preliminary because he thought the Board would have concerns regarding the wetlands.

Mr. Behrendt stated there are no major concerns and recommends continuance.

Board members and Mr. Nickless discussed the plans that were being viewed on the screen that included elevation and the driveway.

Mr. Nickless stated there would be no buffer encroachments and no proposed wetland fill.

Ms. Desjardins opened the public hearing.

Gregg Vandenbossche, Estes Road, questioned what has or what would be approved on the subdivided lot.

Mr. Nickless stated the applicant is just selling the lot to be built according to the Zoning Regulations. He stated the building could be single family or duplex, nothing beyond that. He discussed the plans that were being viewed on the screen that included the lot being of very poorly drained soils.

This application and public hearing was continued to December 7, 2009.

B. Susan Bennett - Seven Henrietta Street Revocable Trust, 7 Henrietta Street (by Norway Plains Associates). 2-lot subdivision. Case # 134-33-R1-09 (PH)

Ms. Desjardins stated the Zoning Board of Adjustment approved a variance for this project, however it is going back to the Zoning Board of Adjustment for an appeal. She stated when the public hearing opens up the Board cannot talk about anything concerning the variance that was approved. She stated the Board cannot take action on this tonight because it has to go to another Board and come back to this Board at another time.

Art Nickless, Norway Plains Associates, stated a variance was previously granted. He discussed the plans that were being viewed on the screen and stated these plans would have been submitted after an appeal was submitted.

Mr. Behrendt stated there are not a lot of issues. He stated the only condition might be where to locate the driveway. He stated there are 5 mature maple trees on the lot which he hopes would remain.

Board members and Mr. Nickless discussed the plans that were being viewed on the screen that included the size of the 2 lots, the old subdivision plans that were done around the year 1948. Also discussed were the driveway, and other items.

Mr. Varney asked if the application was complete. Mr. Behrendt replied he believed it is other than the variance question; however he believes it is best to hold off on acceptance until after the variance issue is resolved. Mr. Varney stated they cannot have a public hearing without accepting the application as complete. Mr. Behrendt replied this is just preliminary.

Ms. Desjardins asked the Board if they were comfortable going forward with letting the abutters speak.

Mr. Varney stated there is absolutely nothing this Board could do to stop the subdivision if the Zoning Board of Adjustment grants the variance and it is upheld. He stated he is happy to hear the abutters speak but there is no way to change that. He stated the arguments against this subdivision have really focused on the Zoning Board of Adjustment, not the Planning Board.

Mr. Nickless stated with that said he is not in any way ready to engage the abutters with answers.

It was the sense of the Board to wait to hear the results from the Zoning Board of Adjustment before hearing from any abutters at this point, because no action could be taken at this time.

This application was continued to December 7, 2009.

C. Holy Rosary Credit Union, 133 Brock Street. (by Norway Plains). Site Plan to expand building to 11,025+/- square feet and add parking. Case # 129-1-R2-09 (PH)

Art Nickless, Norway Plains Associates, discussed the plans that were being viewed on the screen that included the layout of the additional parking spaces, the overflow parking, and other items. He stated the applicant has plans to renovate. He stated Public Works Department has suggested doing a traffic study. He stated they are adding 5 more employees. He briefly discussed comments from Brian Hughes, President of HRCU. He stated many clients are doing online banking. He stated the soil is very sandy, and discussed the infiltration system, the sinkhole and other items. He discussed the preliminary plans that were being viewed on the screen concerning the building.

Mr. Behrendt discussed getting a traffic analysis for the turning lane. He discussed the number of parking spaces, which do not meet the requirements, and other items.

Board members discussed there being no need for a traffic study, the location of the sidewalk, making the north end of the parking lot permeable pavement, no issues with parking, improving the entrance and exit, the roof at the ATM drive-up window which collects ice in the winter time, and other items.

Ms. Desjardins opened the public hearing. No one came forward.

Mr. Nickless discussed whether a left hand lane would be viable, and having someone count cars between the hours of 2:15 and 5 pm. He discussed getting a basic analysis of the site.

Board members discussed getting comments from TRC, doing an in-house traffic analysis, getting data to support the traffic count, and not needing to send this to CLD.

This application was continued to December 7, 2009.

D. Pumpkin Patch Daycare, Bernie & Chelsea Taylor, 81 Oak Street. Request to expand family day care home to day care center. Case # 251-213-10-R1-09 (PH)

Chelsea Taylor, applicant, stated she would like to increase the number of children from 6 to 12. She stated she has the allotted parking spaces.

Mr. Behrendt stated Staff has recommended acceptance as complete and approval as stated in the recommendations. He discussed parking, and dropping off children to be restricted to the driveway.

Ms. Taylor stated there are 6 parking spaces with 2 more in the garage. She stated there would be only 1 employee, and the backyard is enclosed.

Ms. Desjardins opened the public hearing. No one came forward.

Mr. Varney requested the condition of approval be restricted to this applicant while this applicant lives there.

A motion was made by Mr. McCarthy and seconded by Mr. Healey to approve this application with the request made by Mr. Varney, and to add there would be no on street drop off or parking.

Board members discussed enforcement of the drop off and the parking.

Motion carried unanimously.

E. Travis C. Alex, 12 Ridgewood Drive. Site plan for a home automotive repair shop.
Case # 251-196-R1-09 (PH)

Mrs. Alex, applicant, stated she and her husband are looking to be able to work out of their home and want to do this by the book.

Mr. Behrendt stated a variance was granted with most of the neighbors in support and only one abutter that was opposed. He stated he did visit the site with the applicants. He stated there are a number of conditions that are listed in the recommendations; the applicant was amiable to every one of them. He stated there should be added at the end that the Zoning Board put two conditions that the variance would be null and void if the property is sold, and the variance is null and void if the auto repair business is closed. He stated those should be added to the site plan approval. He stated Staff recommends approval as stated.

Board members and Mrs. Alex discussed number 13 in the recommendations and advertising, which Mrs. Alex stated would be by word of mouth.

Board members discussed setting the hours of operation from the approved Zoning Board of Adjustment, signage information, accessory use for signage, and removal of item #6.

Ms. Desjardins opened the public hearing. No one came forward.

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

A motion was made by Mr. Peters and seconded by Mr. McCarthy to approve this application as stipulated. Motion carried unanimously.

F. Rochester Market Place, 96 Milton Road. (Demoulas Super Markets, Inc.). Site plan to establish a tractor supply store in the former Staples store for outside storage and display and relocation of parking spaces. Case # 210-24-B2/12-09 (PH)

Mr. Fontneau recused himself from this application because he is an abutter.

Ms. Desjardins appointed Ms. Larochelle as voting member for Mr. Fontneau for this application.

Dave Baxter, representing the applicant, gave a quick overview of the Tractor Supply Company. He stated his hours of operations would be Monday – Saturday, 8 am to 8 pm, and Sunday, 10 to 6 pm. He stated what complicates this is the outside display. He discussed the plans that were being viewed on the screen that included the parking spaces that are more than adequate, and stated the only time parking might be a problem would be Christmas time then they would need to use overflow for parking. He stated the Fire Department and the Police Department are OK with that. He stated they are not changing the access, or adding any pavement. He stated they are requesting to add some slats to make that more aesthetically pleasing.

Mr. Behrendt stated Staff has recommended approval as stated. He discussed a chain link fence at the front of the property.

Board members and Mr. Baxter discussed the height of the fence.

Mr. Baxter stated they are applying a variance for an 8-foot fence.

Board members discussed the size of the tractors, and what kinds of material might be stored outside.

Mr. Baxter discussed the size of the tractors which would not be stored outside, and stated they would be storing pallets of fencing, wood, rails, posts, plastic wraps, and other items.

Board members and Mr. Baxter discussed the front fenced in area close to the other stores, the neighborhood, keeping the storage area clean and orderly, the drive by traffic for advertising, signage, and other items.

Mr. Baxter discussed the slats, signage, and pylons. He stated whatever is put there would have to pass the Codes Department.

Mr. Varney stated he does not have any signage information.

Mr. Baxter passed around a page that showed the signage.

Mr. Varney stated he would like to be informed of whatever sign they intend to go with, and add a condition 6 that absolutely no equipment or supplies are to be parking in the grass area that is between the parking lot and Milton Road. Mr. Baxter replied they do not have a problem with that.

Board members and Mr. Baxter discussed lighting, parking, and the loading dock.

Ms. Desjardins opened the public hearing. No one came forward.

Board members discussed concern about aesthetics.

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

A motion was made by Mr. Meader and seconded by Ms. Larochelle to approve this application as stated.

Board members discussed adding condition 6 and that there will be no parking in the grass, and the Board has final approval for signage.

Motion carried. One opposed: Ms. Desjardins.

G. Brian Breakfield, Site plan for an auto collision repair, sales, and retail sales of auto body parts and other accessories. 84 Hancock Street. Case # 128-219-B2-09 (PH)

Brian Breakfield, applicant, discussed parking, coral behind the shop, the retail shop in the front, and parking for 3 cars that would be for sale at any given time.

Mr. Behrendt stated this application was bumped from Minor Site to full Board review. He stated the only change would be to add language at the end of condition #8 to read "nor in front of the building". He stated Staff has recommended approval as stated in the recommendations.

Board members and Mr. Breakfield discussed signage, no pole sign, possibly a roof sign, the Planning Board could require you not to have roof sign, waste i.e. parts, and a metal bin. Mr. Breakfield stated the liquid waste would stay in the mixing room until the safety claim people come around to pick up. Also discussed were the collision and repair work to be done, and other items.

Mr. Breakfield discussed cleaning the site up and removing the trailer that is there. He stated the trailer was used to move cars in different places when he was in Maine. He stated cars that he would be not be able to work on right away would be stored in the coral out of sight. He stated he would like to extend the fence in the future so he could have fenced in storage. He stated he would store the cars when he cannot work on them because he can get more money if the cars are stored.

Mr. Varney asked Mr. Behrendt to explain condition #12. Mr. Behrendt replied perhaps a better way of saying it is "in the future if expansion requires site plan at the discretion of the Planning Board and may be required to add a light to the intersection".

Board members discussed the lights that are already in that area.

Board members and Mr. Breakfield discussed items #12 and 10, applicant to hire a civil engineer to find out were the post is, screening the rear of the lot, and the City being the owner of the rear lot.

Mr. Varney stated in conditions 1, 2, 3, and 10, it states conditions must be met prior to issuance of a Certificate of Occupancy. He stated item #6 should also to be done before the Certificate of Occupancy is issued.

Mr. Healey stated he would suggest leaving the proposed fence area alone because the vegetation would grow up and there would be no need for a fence.

Board members and Mr. Breakfield discussed the plans that were being viewed on the screen that included item #6, where the 3 for sale vehicles would be parked, and where employees and customers would park.

Mr. Breakfield agreed to park the cars for sale in the last 3 parking spaces.

Board members discussed the location of the spray booth. Mr. Breakfield replied the spray booth is inside the building.

Ms. Desjardins opened the public hearing. No one came forward.

A motion was made by Mr. Fontneau and seconded by Mr. Martineau to accept this application as complete and to approve with conditions as stated.

Board members and Mr. Behrendt discussed and agreed to remove condition #12; item #6 has already been done, and add a note that the last 3 parking spaces will be designated for the cars that are being sold, the Codes Department could approve any roof sign, the applicant would be responsible for item #10 "City property" which should be surveyed, and the fence should be installed appropriately and according to the survey for the back lot line where the fence would be.

Motion carried unanimously.

H. Brickyard Court, (Rochester Housing Authority, Inc.), 194 Brock Street, behind Advance Auto Parts. (by Civilworks, Inc. Dana Lynch, PE) Site plan for multi-story structure for twelve 1-bedroom elderly housing units. Case # 131-62-2-R2-09 (PH)

Dana Lynch, Civilworks, representing the Rochester Housing Authority, Inc., stated there are approximately 7 ½ acres with 5 acres of wetlands. He stated the housing units are for people 62 and older. He discussed the flood hazard zone; an access easement for whatever development occurs on this lot; there is access to water, sewer, and gas. He discussed the steep slope, 12 parking spaces under the buildings, the upper level to be even with Brock Street with a sidewalk, He discussed the additional parking spaces, which would be behind the building, which would also be out of the 50-foot buffer. He stated there would be no paved area in the buffer. He discussed the upland drainage system, generated trips, and comments from the Conservation Commission; filling some of the wetlands, turn some of the area to the Conservation Commission to create open space, and other items.

Kelly Davis, architecture, stated they would be taking advantage of retaining the hillside. He discussed the plans that were being viewed on the screen that included the mid and upper levels of the units. He stated there would be six, one bedroom apartments on the upper floor, handicap accessibility, an elevator core, 2 stair towers, a path to the sidewalk, benches, and landscaping. He discussed the elevations and stated the architect of the windows would be cottage style. He discussed grading, and other items.

Board members and Mr. Davis discussed the plans that were being viewed on the screen that included the 6 units that would be on the Brock Street level, the 6 units on the mid level, and parking on the lower level.

Mr. Davis stated the floors would have radiant heat in all of the units. He stated the approximate overall height of the building would be 22 feet.

Board members discussed keeping the height of the building with the rest of the neighborhood.

Board members and Mr. Davis discussed venting the 4 boilers and stated these are just conceptual drawings.

Mr. Davis stated there would be 12 open-air parking garages, one assigned to each apartment. The parking garages would be striped, signed, lighted and fully sprinkled.

Board members and Mr. Davis discussed the intersection at the auto store, trees and brush that would be removed, grading to accommodate a clear sight distance, no parking signs, the turnaround, and other items.

Mr. Behrendt stated he has an email from Brian Trueworthy who lives at 18 Waverly Street and a letter from a relative who lives at 194 Brock Street that states their concerns, just for the record. He stated this property would also be subject to full taxation because this is a tax credit project; the third they have done in the City. He discussed the wetlands. He stated a traffic analysis should be done. He discussed the sight distance at the entrance. He stated it would be a good idea for them to apply for a special exception for the elderly that way only one parking space would be required instead of two. He stated there was an application in 2007 for this site that was a bit controversial for 24 townhouses which was not well received by the Board. They then scaled that back to 8 townhouse units that never got past preliminary but the Board did seem receptive to that revised plan. He stated this footprint is a bit larger than that but he believes this plan makes a lot of sense. He discussed the cross section of the slope, the concrete retaining wall, which would go all the way down. He stated concern with the storage in the open-air parking garage, and other items.

Ms. Desjardins opened the public hearing. No one came forward.

Board members asked about the kinds of requirements to rent the units.

Otis Perry, who works with the Housing Authority, stated there would be income requirements, residents would be chosen from a pool of people that are at the 60 percent of the median income for Strafford County. He stated the Housing Authority only allows two people per unit.

Board members asked what is the possibility that there could be change of use in the future.

Mr. Perry stated if they get the special exception from the Board of Adjustment to be classified as housing for the elderly and one parking space per unit that would lock them in by deed restriction for housing the elderly. He stated it would be highly unlikely there would be a change of use, which would then require them to go to the Zoning Board of Adjustment.

He stated this would be under contract with the New Hampshire Financing Authority and the United States Internal Revenue Service for a minimum of 30 years.

Board members discussed changing the name for this application. Mr. Perry replied they have been put on notice by the Fire Department to come up with another name. They are researching another name.

Board members discussed concerns about the trash pickup, a dumpster, and other items.

Mr. Perry stated there would be trash totters (green bins) for each unit and staff would put them out at the curb on pickup day.

Board members and Mr. Perry discussed installing a fence at the access point at the corner of the building, possible problems with the trash pickup, and other items.

Mr. Otis stated they would figure something out for the next time they come back.

Board members discussed doing some form of traffic study. Mr. Otis replied they figured something like that would have to be done.

Mr. Otis stated the reason they came before the Board now is they have a deadline for a preliminary application to the New Hampshire Housing Finance Authority in early December they wanted to have conversation with this Board before they did that. He stated they would prefer not to come back with a formal application until around February.

VII. Proposed amendment to the City of Rochester Zoning Ordinance - Section 42.15 Permitted Uses and Table 42.14. Proposal to allow Outdoor Wood-Fired Boilers in the Agricultural-zoning district and to establish conditions for their use.

Mark Dupuis, Rochester Fire Marshal, stated the ordinance puts a burden on the City. He discussed maintaining the RSA, referring to DES, the email from the City Manager, and other items and issues.

Mr. Behrendt stated Staff has recommended a vote to kill the proposed ordinance. He stated this could be revisited in the future if desirable, and the ordinance is well written, but he thinks more research and discussion is needed. There are several issues to be covered. He said there are concerns expressed by the City Attorney, the ordinance might run afoul of state law, and it should be clarified exactly what the problems we are trying to address are.

Mr. Varney stated we should not wait until these things are proliferating in the R1 and R2 zones before any action is taken. He stated there are lots of complaints now. He stated in July and August having a steady haze of wood smoke drifting through neighborhoods is not a desirable situation. He discussed the incident on Rochester Hill Road. He stated clearly we do not want these in all residential zones. He discussed the issues with this in other cities, issues with the definitions in the States RSA, permitting, and other items.

Fire Marshal Dupuis stated everyone who purchases one of these boilers, as of August 10, 2008 is given a copy of the RSA as part of the understanding when they purchase. He

stated they have to be given and retain that information. That person is made completely and fully aware of all the State Laws and Regulations regarding those units.

Board members and Fire Marshal Dupuis discussed allowing the boilers to be put on 5 acres of land in the Agricultural zone only with certain setbacks.

Fire Marshal Dupuis stated no inspections are required after the initial inspection is done when one has been installed.

Board members asked who would enforce this. Fire Marshal Dupuis stated one would have to obtain a permit from Code Enforcement according to the RSA. He stated if an ordinance were to come out then the ordinance would be followed instead of or in addition to the RSA. He stated as far as enforcement after that, it would come on a complaint-by-complaint basis. He stated the Fire Department would check out complaints, if they find someone is doing something illegal, they would forward it to the State and DES could file a report stating they are in violation. They and the DES would then follow up. He stated the fines are \$250.00 for the first offence and \$500.00 for each offence after that.

Board members and Fire Marshal Dupuis discussed having the boilers in just the Agricultural zone, requirement for inspections, permits needed from the Codes Department, complaints, filing reports to DES, burning issues, keeping it simple, and other issues and items.

Mr. Healey stated he is in favor of killing this proposal. He discussed wood stoves in the house being on the same level as having one of these boilers outdoors, kinds of materials being burned, and other items.

A motion was made by Mr. Fontneau and seconded by Mr. Peters to not endorse the ordinance as presented. Motion carried unanimously.

Board members thanked Fire Marshal Dupuis for taking the time to come to the meeting and explaining all this to them.

Fire Marshal Dupuis stated if an ordinance were to go into effect or something else other than that, he believes it would be appropriate to consider a minimum distance from the dwelling that is actually being heated. He stated there was an instance that one was placed within 18 inches of the house. He stated, believe it or not, because of the manufacturers recommendations it meets the requirements of the manufacturer. He stated the Department was not happy with that but it was too late at that time.

Board members and Fire Marshal Dupuis discussed having the City Council and the Fire Department working jointly on this if this proposal comes back to the Board.

Mr. Behrendt stated he would forward a note to the City Council tomorrow.

VIII. Proposed amendment to Planning Board Bylaws to allow the appointment of an alternate member to temporarily fill a vacancy, pursuant to a change to RSA 673:12

A motion was made by Mr. Healey and seconded by Mr. Sylvain to approve the proposed amendment. Motion carried unanimously.

IX. Proposed Planning Board schedule for calendar year 2010

Board members and Mr. Behrendt discussed the schedule. All were in agreement to go with February 1st, and September 20, 2010, and the rest of the schedule is good.

A motion was made by Mr. Peters and seconded by Mr. McCarthy to accept the schedule as amended. Motion carried unanimously.

Other Business:

Board members and Mr. Behrendt discussed the results of a Minor Site Review for 129 Milton Road.

Mr. Fontneau replied car sales would not be allowed.

Board members and Mr. Behrendt discussed not being approved for selling cars there however they have been selling cars. Also discussed was a big yellow sign that has wheels and is rolled out every morning and night for advertisement.

Board members and Mr. Behrendt discussed a Site Review for a secondhand shop a couple of years ago, which restricted them from selling goods in front of the building.

Mr. Fontneau discussed reviewing the approval that was given to make sure the conditions were incorporated in the Notice of Decision for this different tenant that is going to be doing auto repair. He stated they have designated 6 parking spaces along the Lamberts side of the property. He stated there would be no sale of vehicles on site and any signs would be in the existing perimeter of the pole sign that is there now.

Mr. Behrendt stated he would email the Board the proposed conditions by this Thursday.

Also discussed was the next retreat, which would probably be held in January 2010.

Adjournment:

A motion was made by Mr. Healey and seconded by Mr. Peters to adjourn at 10:05 p.m. Motion carried unanimously.

Respectfully submitted,

Madeleine Carter, Secretary

(These minutes were transcribed from notes)