

**CITY OF ROCHESTER**  
**Planning Board**  
Monday, December 21, 2009 at 7:00 p.m. (workshop)  
**City Council Chambers**  
31 Wakefield Street, Rochester, NH 03867  
(These minutes were approved January 4, 2010)

Members Present

A. Terese Desjardins, *Chair*  
Tim Fontneau, *Vice Chair*  
Nel Sylvain, *Secretary*  
Tom Abbott  
Rick Healey  
Derek Peters

Members Absent

Richard Groat (*Excused*)  
Eugene McCarthy (*Excused*)  
John David Meader (*Excused*)

Alternates Present

Gloria Larochelle  
Stephen Martineau  
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.

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**Communications from the Chair**

Ms. Desjardins appointed Ms. Larochelle as voting member for Mr. McCarthy, and Mr. Martineau for Mr. Groat.

Ms. Desjardins asked Mr. Sylvain to let the Board know as soon as he the date in January for the next retreat meeting.

## Public Comment

No comments.

## Discussion of general planning issues

Mr. Sylvain stated he would like Mr. Healey to remain as representative for the Planning Board on the Historic District Commission for another term.

*A motion was made by Mr. Sylvain and seconded by Mr. Fontneau to keep Mr. Healey on the Historic District Commission for another term. Motion carried unanimously.*

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## Approval of minutes for December 7, 2009

*A motion was made by Mr. Sylvain and seconded by Mr. Peters to approve the minutes of December 7, 2009. Motion carried unanimously.*

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## CONTINUED 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, briefly discussed precedent condition 1c concerning the poorly drained wetlands.

Mr. Behrendt stated Staff has recommended approval as stated in the recommendations.

Board members, and Mr. Nickless discussed precedent condition 1c.

Mr. Nickless explained the flood plains requirement.

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

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

*A motion was made by Mr. Fontneau and seconded by Mr. Healey to approve this application. Motion carried unanimously.*

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**B. Rose Realty, LLC, Chesley Hill Estates, Chesley Hill Road** (by Berry Surveying & Engineering). Amendment to approved 2003 33-lot subdivision to change drainage patterns. Case #246-32-R1-02. PH

This application was postponed to the January 4, 2010 meeting.

**C. Raymond C. Green Inc., Channing's Lane/Wingate Estates.** Amendment to approved 10-lot subdivision to eliminate sidewalk. Case #206-8-A-04. PH

Mr. Behrendt stated the applicant has requested tabling this application until spring 2010. The applicant has paid the 100 dollars for the amendment. He stated if the applicant does not come back by May 18<sup>th</sup> 2010 the amendment would be null and void.

Mr. Fontneau asked if any work has been done. Mr. Behrendt replied nothing in the infrastructure as far as he knows.

Board members discussed an email from Mr. Willis, Public Works Department, and what recourse the City would have if this were not finished.

Mr. Behrendt stated the applicant does have contracts with companies for plowing, and trash pickup. He stated hopefully those contracts would be fully carried out through the winter and beyond. He stated hopefully sometime next year the road would be ready to be conveyed to the City. He stated he believes Council would be OK approving this without sidewalks. He stated the decision to eliminate the sidewalks is up to the Planning Board.

Board members discussed getting more information as to what the Board can or cannot do concerning the contracts that are not being met.

Mr. Behrendt stated he believes there is a fair amount of money in the surety. He stated there is a condition that the Board starting putting in all the subdivisions in recent years, he believes it states if trash is not picked up and the road is not plowed the City can use the surety to do that. He stated this project was approved in 2005 before that condition was put in. He stated whether surety could be used or whether building permits could be denied he is not sure at this point. He stated if our hand were forced we would then consult with the City Attorney to do whatever we need to do.

Board members and Mr. Behrendt discussed the timetable, contracts, leverage, conveying to the City, and other items.

*A motion was made by Mr. Fontneau and seconded by Mr. Peters to table this application, with the conditions as stated, to June 1, 2010.*

Board members discussed tabling this to April workshop meeting.

*A motion was made by Mr. Fontneau and seconded by Mr. Peters to amend the motion and to table this application to April 20, 2010. Motion carried unanimously.*

## Sign Application:

**Sunrise Ministorage (Tom Aubert, business owner), 11 Jarvis Avenue** (by Norway Plains Associates). Review of proposed freestanding sign for approved site plan for three mini-storage buildings (total of 9,100 square feet). Case # 215-62-12-08

Mr. Behrendt stated Staff has recommended approval as submitted in the recommendations with the addition of a condition that if the lights glare the wattage is to be reduced or the lights redirected.

*A motion was made by Mr. Abbott and seconded by Mr. Healey to approve this application. Motion carried unanimously.*

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## New Application:

**Site plan application to open taxicab business with full service maintenance garage and automobile body shop for the taxicab business and the general public, 68 South Main Street, New Hampshire Checker Cab (Tim Goumas and Jose Nunez, business owners), Case #120-324-B1/SD-09.**

Jose Nunez, applicant, stated they are here to get approval so they can proceed onto other matters that would lead them into occupancy of this building.

Mr. Behrendt stated the Historic District Commission approved the sign and the light over the sign. The Historic District Commission will determine the color of the awning, and the colors of the building. He stated Staff has recommended approval of the site design and the change of use as submitted in the recommendations. He stated item eleven is repeated one will be eliminated. He stated on condition #16, the Zoning Board of Adjustment did grant a variance for the auto service and the auto body shop with a condition that quote "this variance becomes null and void if the full service taxi cab use including taxi cabs based at this location serving the Rochester area as described in the letter of intent ceases to operate in this location". He stated this language should be included. He stated he received a note from the Codes department stating a mechanical inspector should approve the discharge from the paint booth.

Mr. Abbott asked that the conditions be separated for any requirements that have to be met prior to the license of the taxicab company. He stated he would rather not end up holding them up because this is their business address.

Mr. Behrendt stated he would work on that during the meeting.

Board members, Mr. Behrendt, and Mr. Nunez discussed fencing the area, graveling the lot, the parking area, various stages of repairing vehicles, fencing the area for vehicles that need to be repaired, vehicles parked outside waiting for repair, precedent condition #5, parking in designated spaces, and other items.

Mr. Nunez stated they are willing to abide to conditions that they would not have vehicles parked outside that are in need of repair.

Board members discussed whether vehicles would be parked inside waiting for repairs or parts opposed to leaving them outside.

Mr. Nunez replied there is enough space in the auto body section of the building to keep vehicles that need repair or parts inside.

Board members discussed item #5 concerning parking on Dreyer Street, agreed with item #12 for curb stops but eliminate the words " or fence", item 26 eliminate the rest of the sentence after "specified", item #28 make sure the wording is right in the very last sentence concerning the bonds vs. surety.

Mr. Nunez stated if they do have to put vehicles outside they would put a fence up. He stated the owner of the building would have to give permission to put up a fence because they are only leasing the building.

Board members asked if vehicles would be stored outside overnight. Mr. Nunez replied they would not be storing "their" vehicles outside overnight, as far as other vehicles it depends on how many there are.

Timothy Goumas, applicant, replied if the landlords sees fit with putting in a fence they would absolutely put a 6 foot stockade fence all the way around, if that is going to make the Board happy.

Board members discussed combining language to items #7 and 10 as described by Mr. Behrendt.

Board members discussed eliminating item #4, Historic District Commission approving the fence, #9, and other items.

Mr. Goumas stated they would probably come back asking for approval to have inspections.

Board members agreed there would be no need to do that as the Board could allow that now.

Mr. Behrendt stated, "No repair vehicles waiting for repair shall be parked overnight on the South Main Street side of the road"

Board members and Mr. Behrendt discussed combining language for #1 and 9, and putting a no parking sign on the side of the building.

Mr. Nunez agreed with a no parking sign on their building on Dreyer Street.

Ms. Desjardins opened the public hearing.

Don Carrigan, abutter, stated this is a residential area, he is concerned with the increased traffic flow on this 2 way street, banning parking on the street, making this street one way, monitoring the cars that might be stored outside, require a fence, and other items.

Richard Carana, abutter, stated he is concerned with the traffic and parking problems.

Some Board members agreed they would like to see that street as one way, with vehicles entering on South Main Street and exiting onto Columbus Avenue.

Board members discussed not making it a one-way street, no parking on one side of the street, public parking, and number of employees, other businesses on that street, and other items.

Mr. Goumas discussed the number of vehicles they would have, and the number of employees. He stated employees could park in the public parking spaces. He stated a one-way street would be really tough and a massive problem.

Board members discussed sending a request to the Council to make this a one-way street. Mr. Behrendt replied he would do that.

Ms. Desjardins asked if anyone else from the public would like to speak. No one came forward.

*A motion was made by Mr. Healey and seconded by Ms. Larochelle to close the public hearing. Motion carried unanimously.*

Mr. Behrendt stated this might be a two-step process where they would open their taxicab business before opening the auto body and maintenance service portion of the building.

Mr. Abbott stated before they could get their operators license they would have to be able to say they have met some of their conditions. He stated he just wants to limit what the conditions will be so there will not be any confusion when we get to the operators license.

Mr. Behrendt stated it makes sense to issue their license to operate the taxi business subject to having some portion of the building have a Certificate of Occupancy, presumably the front section. He stated most of these are general conditions such as item 6. He stated it does not look like any specific things must be done that are needed for the taxi business. He stated other items not needed for the taxicab service are items 7 to 10, 12, 15, and 24, and a sign on the side of the building. He believes the only thing they need is a Certificate of Occupancy for some portion of the building. He stated he could add a condition that states; in order to open just the taxicab service separately all of the general conditions must apply. He stated there are no affirmative steps that need to be taken other than having a portion of the building from which they will operate, getting a Certificate of Occupancy.

Mr. Abbott stated if the applicant gets permits in place realistically there is no need to go to the Certificate of Occupancy portion of the building. He stated the mechanical and the automotive is a different story, which is more intensive. He stated he wants to be clear as to what conditions need to be met. He stated it is his understanding none of the conditions apply as long as the building is safe to occupy. Mr. Behrendt replied yes unless the Board thinks otherwise.

Board members agreed the no parking sign and the curb stop should be in place prior to opening the taxicab service.

Mr. Sylvain reminded the applicant to bring any and all pertinent information to the Historic District Commission meeting.

Ms. Desjardins asked Mr. Behrendt to review the changes so everyone will know what they are making a motion of.

Mr. Behrendt stated the changes are as follows: Modifying # 1 and 9, #2 and 3 stays, eliminate #4, 5 and 6 stays, combine language on items 7 and 10, items 8 stays, add language to item 9, eliminate one of the #11s, eliminate the words "or fencing" and the last sentence in item 12, items 13 to 18 stays. He stated he would add a side note to send a request from the Planning Board to the City Council to examine converting Dreyer Street to a one-way street from South Main Street to Columbus Avenue, add a condition that there will be a no parking sign on the building "Dreyer Street side not South Main Street", add a condition that any paint discharge to be approved by a mechanical inspector, items 20 to 25 stays, item 26 end the sentence at the word "package", item 27 stays, item 28 change the word bonds to surety, items 29 and 30 stays. He stated he would add language from Mr. Abbott to say, "in order to open the taxicab business the curb stop and the no parking sign needs to be in place, there also has to be some space inside the building from which it will operate that is approved by the Code Enforcement Department or the Fire Department. He stated no other specific requirements must be in place for them to open the taxi business by itself.

Board members and Mr. Behrendt discussed the term "wrecked vehicles" in item 7. Mr. Behrendt replied he would replace that with "vehicles in disrepair".

Board members discussed having some kind of trigger or monitoring mechanism for the fence. Ms. Desjardins replied Mr. Nunez stated they are not foreseeing a problem with that as long as they get permission from the owner to put up a fence and the cost is not going to cost thousands of dollars. In the interim vehicles cannot be stored outside overnight.

Ms. Desjardins stated members of this Board are very diligent going by projects they have approved and making the Codes Department aware of any violations.

Mr. Nunez asked Mr. Abbott about licensing for the taxicabs. He asked if they come up with another commercial address could they start their company as far as getting their cabs on the road, not from this facility because it may take longer than they want it to.

Mr. Abbott replied as long as you (Mr. Nunez) have an approved facility, which does not have to be in this city, you could get a temporary location in another city for your dispatch. He stated that is why he asked the items be separated to make sure there was no confusion. He stated once this building is ready they could move that portion of the business into the building and they could then adjust the permit based on that.

Mr. Goumas stated they are ready to work tomorrow because they are already licensed in other cities; all they are waiting for is the Boards approval. He stated they have a commercial location in Ossipee and Portsmouth that can be used as a dispatch office.

Mr. Abbott stated from the pictures he has seen the inside of the building has been trashed.

Mr. Goumas stated it would take about 3 weeks to clean that up. He stated until he can get an address the dispatch would probably be temporarily out of the Portsmouth office.

Mr. Abbott stated what we did not want is a residential address on an operators permit for a taxicab company. He stated knowing it is coming to the Board he also does not want to hand Mr. Goumas a permit and people see cabs parked there before any of the conditions are met.

Mr. Fontneau stated getting an operators license does not have anything to do with this Board. He stated it is the location they deal with. If they use whatever other city to get their operators license that is fine but they cannot park their cabs at this location until this location meets the requirements.

Mr. Behrendt stated there are conditions that require clarity for surety prior to Certificate of Occupancy of the auto body or auto maintenance use which include items 8 through 10 and 12.

*A motion was made by Mr. Martineau and seconded by Mr. Healey to approve this application. Motion carried unanimously.*

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**Proposed amendment to Zoning Ordinance regarding definitions for “Junkyard” and “Junkyard, Motor Vehicles”. Subsections 42.6 (31) and (32). RECOMMENDATION FOR AMENDMENT**

Ms. Desjardins asked the Board if they have had a chance to read the amendment.

Mr. Behrendt stated Staff has recommended a formal vote on this amendment.

Ms. Desjardins asked Mr. Abbott to give an outline of the definitions.

Mr. Abbott stated they just want to remove the portion that requires vehicles to be licensed. He stated the City has been through the court process on this. He stated when an abutter complains about a junkyard next door, the offender then registers their vehicles for a minimum charge. He stated some of them are sitting on stumps or blocks. He stated as soon as the license plates are in the windshield it is no longer considered a junkyard, which the abutter does not always agree. He stated the other portion of a junkyard implies that you have to sell the junk in your yard in order for it to be a junkyard. He stated they want to change selling the junk as one of the options. He discussed the definition of selling junk, and other items.

*A motion was made by Mr. Peters and seconded by Mr. Healey to approve this amendment. Motion carried unanimously.*

## Other Business

Mr. Peters stated they have received 5 bids for the recreation master plan. He stated they would be interviewing all 5 on January 23, 2010 to determine which company they would be moving forward with to start this master plan. He stated they would look at all aspects.

Mr. Martineau stated they would like everyone's input on this.

Mr. Peters stated there are 15 members on this project.

Ms. Desjardins stated she encourages everyone on the Board to email Mr. Peters and Mr. Martineau with any questions.

Board members discussed a timetable for this project.

Mr. Varney stated when the Council approved the money for this project one of the problems with doing these master plans is we spend thousands of dollars in some cases and they don't get done in a timely fashion. He stated this has been discussed at the Council level and approved the funding for this provided it would be done by the fiscal year ending in June 2010.

Board members discussed the timeframe, the RFQ, the Holiday's being one of the factors in not getting this done, and other items.

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## Adjournment

*A motion was made Mr. Peters and seconded by Mr. Healey to adjourn at 8:35 p.m. Motion carried unanimously.*

Respectfully submitted,

Madeleine Carter, Secretary

(These minutes were transcribed from notes)