

**City of Rochester  
Planning Board**

Monday June 6, 2011 at 7:00 p.m. “*Regular Meeting*”

City Council Chambers

31 Wakefield Street, Rochester, NH 03867

*(These minutes were approved on June 20, 2011)*

Members Present

Nel Sylvain, *Chair*

Tim Fontneau, *Vice Chair*

Rick Healey

Gloria Larochele

John Meader

Derek Peters

Dave Walker, Councilor

Alternate Members Present

James Gray

Members Absent

Tom Abbott

Stephen Martineau

Staff: Michael Behrendt, Chief Planner

Marcia J. Gasses, Planning Secretary

(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.)

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Mr. Sylvain called the meeting to order at 7:00 p.m. The Planning Secretary conducted the roll call.

James Gray to sit for Steven Martineau

**Communications from the Chair**

None

**Approval of the May 16, 2011 Workshop Meeting Minutes**

*A motion was made by Mr. Walker and seconded by Mr. Gray to approve the May 16, 2011 meeting minutes. The motion carried unanimously.*

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## **Consent Agenda**

- A. Charles A. Burrows, 155 Old Dover Road** (by Berry Surveying Inc.) Lot Line Revision. Case # 253-93-1 & 94
- B. Jeremiah Stuart, 24 Jeremiah Lane** (by Berry Surveying Inc.) Extension to meet precedent conditions for Lot Line Adjustment and road layout. Case # 223-21-A-08
- C. Mary T. Fowler Revocable Trust, 1088 Salmon Falls Road.** 4-lot subdivision (by Norway Plains Associates) Case # 241-10-A-11 Postponement

Mr. Sylvain opened the public hearing for items A and C.

No one spoke.

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

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## **New Applications**

**Goodfellas Brickoven Pizza / Robert Partridge, 66 Washington Street.** Amendment to approved site plan to allow for entertainment. Case # 123-1-B1-10

Mr. Partridge explained that he had taken over the former Spinale's and at this time would like to add light entertainment. Entertainment would not be the focus. The idea was to draw in more clients by having an acoustic night, comedy or karaoke. They do not have the space or capacity for a band. They have done trivia on Wednesday nights and it was successful.

Mr. Sylvain opened the public hearing.

Lenny Bernard was there to ask for the guidelines for having entertainment.

*A motion was made by Mr. Peters and seconded by Mr. Walker to close the public hearing. The motion carried unanimously.*

Mr. Behrendt stated the applicant is in compliance with prior conditions. During the TRG meeting the police captain spoke out against the application out of concern for noise. The only application provided for in the ordinance is the sound level at the property line. The applicant should have the Fire Department okay as to whether sprinklers are required. Mr. Partridge stated he is well below the capacity for the requirement for sprinklers.

Mr. Peters stated that Mr. Partridge is probably correct.

Mr. Fontneau asked if there would be a dance floor.

Mr. Partridge stated that there would not be a designated dance floor or stage.

Mr. Peters asked if the occupancy allowed is for 32 due to the parking constraints.

Mr. Fontneau asked if the City had a decibel meter.

Mr. Walker stated the Police Department had a meter.

Mr. Sylvain asked which nights they would have entertainment.

Mr. Partridge stated they were looking at the off nights, they would see which nights worked.

Mr. Sylvain's concern was during the week you have families and the need for a reasonable time for kids to get to sleep.

Mr. Partridge stated that any entertainment probably would not be as loud as the juke box they have now.

Mr. Fontneau expressed he is not aware of any complaints since the new operator took over.

Mr. Walker felt that entertainment of any kind would be a problem due to the situation in the neighborhood.

Mr. Fontneau stated that the one abutter just came in with a question. He asked if there had been any complaints.

Lenny Bernard stated there have been no complaints.

Mr. Fontneau expressed how the board had all types of complaints with the previous owner and none with the current operator. He believed the board should support the application.

Mr. Peters wanted to limit the number of performers.

Mr. Partridge explained that they did not have the room or set-up and are limited by their seating. He did not want his hands tied.

Mr. Peters was only concerned with the etceteras, does not want to see a four or five person band. Not opposed.

*A motion was made by Mr. Gray to approve the application with a limit of three entertainers performing at the same time. The motion was seconded by Ms. Laroche. The motion carried by a voice vote.*

**B. David Howard and Deidra Howard, 14 Deerfield Court** (by Norway Plains Associates). Lot line revision to divide 41 acre residential lot in half and append 10 acres to house lot at 14 Deerfield Court. Case # 222-32 & 67 -R2-11

Art Nickless of Norway Plains Associates explained they are adding 10 acres of backland to the house lot. Only three deeds had passed on the subject property and if you have driven by you would understand why.

Mr. Sylvain opened the public hearing.

*A motion was made by Mr. Gray and seconded by Mr. Peters to close the public hearing. The motion carried unanimously.*

Mr. Behrendt stated that it is an unusual situation but he does not see any problems.

Mr. Peters asked if the lot could be subdivided in the future.

Mr. Behrendt stated that if the owner on Deerfield Court wanted to demolish the home and put in a road it is possible but unlikely.

*A motion was made by Mr. Gray and seconded by Mr. Walker to approve the application. The motion carried unanimously.*

**C. Metrocast, Inc., 21 Jarvis Avenue** (by Norway Plains Associates). Construction of an 8,000 square foot two-story addition for engineering, customer service, technical service and eight new parking places. Case # 215-61-I2-11

Art Nickless of Norway Plains Associates explained that Metrocast continues to experience growth. The proposed addition is to bring all technical people together. The addition will house offices in the downstairs area and conference space upstairs.

The applicant will also be realigning the parking lot and installing a sidewalk behind the building. The existing septic is more than large enough.

They have submitted a full application but still have more work that needs to be done.

Mr. Walker wanted to know if the building would be ADA compliant on the seconded floor.

Mr. Nickless stated, yes.

Mr. Sylvain wanted to know if there would be an increase in the amount of handicap parking.

Mr. Nickless stated, most likely.

Mr. Peters asked if the fence would be relocated.

Mr. Nickless stated the fence would be relocated or a gate would be installed.

Mr. Peters asked that it be shown on the next iteration.

Mr. Sylvain asked that the dumpster location also be identified.

Mr. Fontneau asked if the parking was a matter of need or fulfillment of a requirement.

Mr. Nickless stated they could show a gravel lot. The parking is not a need. Seventy-five to eighty percent of the day the trucks are out. He will find out the actual need.

Mr. Sylvain asked when the applicant wanted to come back before the board.

Mr. Nickless stated they plan to be back on June 20, 2011.

Mr. Behrendt informed the board a portion of the parcel is in the conservation overlay district but that it is exempt because it is due to drainage.

Mr. Nickless agreed that a significant portion is manmade.

Mr. Sylvain stated they would plan on seeing Mr. Nickless back on June 20, 2011 and the public hearing would be left open.

**D. James J. Nyberg Revocable Trust, 120 Washington Street** (by Norway Plains Associates). Preliminary (design review) site plan to convert an existing single family home to an orthodontist's office. Case # 123-65-B1-11

Art Nickless of Norway Plains Associates representing Dr. Nyberg who is also present, would like to renovate the site for a small orthodontists office. The prior owner had been asked by the City to move the driveway to Brock Street. The applicant would have liked to have both driveways but Melodie Esterberg would not agree to this. This application was scheduled to go to the ZBA to seek a variance to allow parking in the buffer. The applicant was hoping to turn a small lot into a productive parcel. The applicant will need relief from side, side parking, and from the front set backs. They were looking for feedback before going to ZBA.

Mr. Sylvain opened the public hearing.

Mr. Nickless stated the curb cut to the drive is 60' from the corner.

Mr. Walker stated he had serious safety concerns.

Mr. Peters asked what the hours of operation would be.

Mr. Nickless stated hours of operation would be 9-5 two days per week.

Mr. Peters questioned how high the retaining wall would be.

Mr. Nickless stated 4' above grade.

Discussion ensued regarding the safety issues at this intersection and moving the driveway access to Brock Street may be an improvement.

Mr. Healey felt this would be a better situation. From his personal experience the area is hazardous.

Mr. Walker was concerned with school traffic and so near an intersection.

Mr. Fontneau asked how many vehicles they would have at the site.

Dr. Nyberg stated there would be 2-3 patients at a time and up to 4 staff members, 2 days per week.

Mr. Behrendt explained that the applicant would be going before the ZBA Wednesday and it would be useful if the board could sum up their thoughts and pass those comments along to the ZBA.

Mr. Behrendt stated his opinion would be against the proposal; unfortunately it is a very tight site. It would be preferable to have the site remain a single family use.

Mr. Fontneau believes the site as a single family home location is functionally obsolete. He believed if the proposal was for a Subway it would be a problem. He could not think of a better use than a small office.

Mr. Meader explained that at TRG they could not think of any better use.

Mr. Peters asked if the applicant could get by with seven spaces.

Mr. Nickless stated he would look at it but also leave room for an 8<sup>th</sup> space.

Mr. Sylvain asked for a consensus from the board,

Mr. Peters was not opposed but he had concerns.

Mr. Behrendt stated the police were concerned with access but not overly concerned and Melodie Esterberg was not thrilled but if permitted they would need to work with it. The area would be zoned Neighborhood Commercial under Comprehensive Rezoning.

The consensus from the board was to support the application.

Mr. Sylvain would like to see a plan for direction of travel.

Mr. Nickless expressed that 75% to 80% of the day the conditions are not bad.

Mr. Walker was also concerned with traffic turning in and possibly being rear ended.

Mr. Sylvain placed this application on the July 11, 2011 agenda.

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## **Other Business**

Mr. Sylvain asked for an update on surety.

Mr. Fontneau explained that they had two meetings. Currently the committee is developing a revamped process. They are looking at completely reviewing the surety held three times per year and any disbursements would coincide with the review dates.

Mr. Gray explained the reason being they would retain more if costs had risen.

Mr. Sylvain questioned holding money on a project that is completely done. He did not think that was right.

Mr. Fontneau expressed, the point is to have an organized timeframe.

Mr. Sylvain felt the board was basing this on a developer not completing work. The board would be punishing those who do what they are told.

Mr. Peters explained that Dover makes a list and sends out the engineer to check. There are set amounts for surety.

Mr. Fontneau felt that whatever the initial surety they have a 10% contingency. He would like to see the design engineer certify the project was built as designed.

Mr. Walker stated it should be based on City streets made to City standards.

Mr. Sylvain explained the releases are done in percentages, the final one done for acceptance as a City street.

Mr. Sylvain would like to see Mr. Ortmann and the Public Works Director at the June 20<sup>th</sup> meeting.

Mr. Sylvain would like to see clarification from planning and public works on what the punch list is going to be.

Ms. Larochelle told the board the committee would be meeting on July 12, 2011.

Mr. Fontneau suggested they let the committee meet one more time.

Mr. Sylvain would still like to see Mr. Ortmann at the July 11 meeting.

Mr. Peters would like to see what we are taking in for funds for inspections.

Mr. Sylvain stated it is not always the City engineer who does the inspections.

Mr. Behrendt stated the inspection fee deposit is a standard condition of approval.

Mr. Sylvain would like to see Mr. Ortmann before the board on June 11<sup>th</sup> and again on the 18<sup>th</sup> of July when all information should be before the board. The Public Works Director should be before the board on July 18<sup>th</sup> to give the board a breakdown of the checklist.

Mr. Sylvain wanted to know on June 20<sup>th</sup> how much the city has collected in inspection deposits and how much had been charged back as fees.

Mr. Gray told the board about Rochester winning the Profile Award and asked if anyone from the City would be attending.

Mr. Healey stated he would be attending.

Mr. Behrendt stated Mr. Ortmann and his wife would be attending. Rochester has been recognized as an outstanding community through the Historic Preservation Alliance.

Mr. Sylvain reminded everyone about the OEP conference on June 11<sup>th</sup>.

*A motion was made by Mr. Gray and seconded by Ms. Laroche to adjourn the meeting at 8:38 p.m. The motion carried unanimously.*

Respectfully submitted,

Marcia J. Gasses  
Planning Secretary







