

**City of Rochester
Planning Board**

Monday October 3, 2011 at 7:00 p.m. "Regular Meeting"
City Council Chambers

31 Wakefield Street, Rochester, NH 03867

(These minutes were approved on October 18, 2011)

Members Present

Nel Sylvain, *Chair*
Tim Fontneau, *Vice Chair*
Derek Peters, *Secretary*
Gloria Larochelle
Stephen Martineau
John Meader
Dave Walker, Councilor

Members Absent

Rick Healey

Alternate Members Present

James Gray

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.)

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

Communications from the Chair

None

Approval of Minutes: September 12, 2011

A motion was made by Mr. Walker and seconded by Mr. Peters to approve the September 12, 2011 "Regular Meeting Minutes". The motion carried unanimously.

Approval of Minutes: September 19, 2011

A motion was made by Mr. Walker and seconded by Mr. Peters to approve the September 19, 2011 "Workshop Meeting Minutes". The motion carried unanimously.

Consent Agenda:

- A. Jarvis Cutting Tools, Inc., 100 Jarvis Avenue** (by Norway Plains Associates). Site Plan for the expansion of an existing 30,000 square foot manufacturing building by the addition of a 100'x100', 10,000 square foot addition. Case # 215-59-I2-11
- B. Mark G. Phillips, 106 England Road** (by Norway Plains Associates). Lot Line Revision to add land to Lot 10 from Lot 10-4 to accommodate an existing second dwelling unit. Case # 263-10 & 10-4-A-11
- C. Johnny and Kitty Ho Lam, 105 Charles Street & Patrick and Shannon Munday, 5 Sidney Street** (by Norway Plains Associates). Lot Line Revision to add land to Lot 255 from 255-1 placing the existing walkway constructed by the Lams completely on their property. Case # 128-255 & 255-1-R2-11

Mr. Peters asked to remove items B and C, so the board could conduct a public hearing on those items.

- A.** Mr. Behrendt stated that Jarvis Cutting Tools had asked for a postponement to November 21, 2011.
- B. Mark G. Phillips, 106 England Road** (by Norway Plains Associates). Lot Line Revision to add land to Lot 10 from Lot 10-4 to accommodate an existing second dwelling unit. Case # 263-10 & 10-4-A-11

Mr. Art Nickless represented the applicant and explained to the board the information they had been given was pretty self explanatory. There had been two dwelling units constructed on the lot with all the necessary permits and it was brought to their attention after that the lot did not have the required square footage. Code Enforcement had recommended an equitable waiver. Mr. Nickless thought the lot line adjustment was a better option.

Mr. Sylvain opened the public hearing.
No one spoke.

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

Mr. Behrendt recommended approval as stated.

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

- C. Johnny and Kitty Ho Lam, 105 Charles Street & Patrick and Shannon Munday, 5 Sidney Street** (by Norway Plains Associates). Lot Line Revision to add land to Lot 255 from 255-1 placing the existing walkway constructed by the Lams completely on their property. Case # 128-255 & 255-1-R2-11

Art Nickless explained that this application included an even swap of land between the Lam's and the Munday's to place the Lam's walkway entirely on their property.

Mr. Sylvain opened the public hearing.

No one spoke.

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

Mr. Behrendt recommended approval.

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

Extensions and Amendments for Previously Approved Plans:

- A. Public Service of NH, 103 Walnut Street (Route 202A),** Extension to meet precedent conditions for Eastport Substation project as the construction start time has now been rescheduled to early 2013. Case # 122-93-12-09

Mr. Behrendt explained that this project had been originally approved on April 6, 2009 and had been granted a two year extension on September 14, 2009. This was a request for an additional two year extension as the construction start time had now been rescheduled to early 2013. He did not see a problem with the request.

Mr. Walker told the board that the area in question is proposed to be changed to Light Industrial under the Comprehensive Rezoning not Heavy Industrial.

Mr. Behrendt explained the use would still be allowed by Special Exception under Light Industrial.

Mr. Sylvain asked if the fee had been paid.

Mr. Behrendt stated the fee had been paid.

Nick Golon representing the applicant explained to the board it was possible they would be back seeking a modification.

A motion was made by Mr. Walker and seconded by Mr. Gray to grant 2 year extension. The motion carried unanimously.

- B. Wingate Estates, Channings Lane.** Amendment to approved subdivision to remove sidewalks, guard rail, trees, and benches from approved plan. Case # 206-8-A-04

Peter Rizzo explained he was the owner of the project 4 years ago but had gone out of business. He had been approached by the bank about the project and now owns a few lots. Due to cost Mr. Rizzo would like to eliminate the sidewalks because they would be a burden. He did not feel the guard rails and benches are necessary. In addition the lot had not been clear cut and the additional trees were unnecessary.

Mr. Sylvain opened the public hearing.

Sean Daly, 35 Channings Lane explained to the board he lives on the original lot. He agreed with the removal of the granite benches. He understood the reasoning behind the request for the sidewalk removal but explained he was also biased do to the fact he had children. He stated that maintenance

of the sidewalks would be difficult and they would be the only subdivision in the area to have sidewalks. He felt the guardrails were needed.

Mr. Daly had general questions regarding the project. He wanted to know what constituted completion of the subdivision. If items were removed that brought the cost down did that mean the road was going to be completed. In addition he explained that two homes still needed to have poles removed and their utilities placed underground. In regard to trees, Mr. Daly explained that there were significant erosion problems that trees may help. Trees were placed between Lot #8-1 and Lot #10 with the idea there would be a visual barrier. He wanted to see the visual barrier completed.

Mr. Daly would like the items recorded with the plan in exchange for his easement. He also believed his driveway should be paved and that Mr. Rizzo should make arrangements for snow removal and trash.

Mr. Sylvain asked Mr. Rizzo what items still needed to be completed.

Mr. Rizzo stated that a culvert needed to be fixed and the wearing coat applied.

Mr. Walker stated that an engineer had placed the guardrails in to begin with. He agreed with the removal of the sidewalks because of the location, but with the suggestion to widen the street to include a bike path.

Mr. Peters stated he would go with the engineers recommendation in regard to the guardrail but he would need to take a look at the street trees.

Mr. Sylvain stated he would like to schedule a site walk.

Discussion ensued.

The site walk was scheduled for Thursday October 6, 2011 at 5:00 pm at the entrance to Channings Lane.

The board took a 5 minute recess.

Mr. Sylvain called the meeting back to order at 7:50 pm.

Discussion of Surety

Mr. Fontneau explained to the board that the Surety Committee had met on September 26th and the committee came up with language to include the 2%. They do not have the final language back yet from legal review. The language proposed 2% be held for one year after acceptance of the road and could be adjusted by consultation with engineering.

The committee had discussed the \$75 per hour inspection fee and it will be addressed in a number of areas and on the agreement signed by the developer.

Mr. Sylvain asked if the money was held in the Planning Office.

Mr. Behrendt explained that the money is held by the Business Office but processed through the Planning Office.

Mr. Peters questioned why the City would be holding money. He felt it should be billed on a monthly basis and that travel time should be included.

Mr. Walker liked the idea of billing.

Kenn Ortmann, Director of Planning and Community Development explained to the board that one of the reasons was to make sure the City is not caught holding the bag. The fund can be monitored to make sure that there is enough available to cover the required inspections.

Mr. Fontneau stated that basically they had set this up so that the City is not chasing money on a monthly basis.

Mr. Ortmann explained that it had been important to build in with surety a mechanism that if the developer thought the amount unfair they could go back to the Planning Board. He asked if it might be appropriate for inspection fees as well.

Mr. Sylvain asked who sets the amount of the required deposit.

Mr. Fontneau stated that Public Works sets the amount.

Mr. Gray brought forth the need to keep the fee current so that everyone is paying the same rate. He suggested that the language should read "the current hourly rate" or "rate subject to change".

Mr. Sylvain asked the board if members were okay with any rate change coming back before the board.

Mr. Ortmann explained to the board that years ago there were not charges for inspections unless an outside entity was doing the inspections. There needed to be a way to make people aware but the language needed to work also.

Mr. Martineau asked if the City goes with the low bidder.

Mr. Ortmann explained that quality is important but it is a cost to the developer. The City will go with the lowest responsive bid.

Mr. Peters did not agree with using a third party except in the case of having inner workings checked, which must be done by a third party who is qualified.

Mr. Behrendt explained to the board that since the City has started charging for inspections only City staff has conducted them.

Mr. Walker stated that maybe in the future a clerk of the works would be hired, which had been discussed at the Council level.

Mr. Sylvain stated that when the committee is done and the board had a legal opinion they could vote on it.

Mr. Martineau stated that he believed drive time should be billed.

Mr. Ortmann explained that it was his understanding that the amount billed is the time on site. It was about trying to keep a balance with a staff that does a variety of things.

Mr. Gray stated that the board would be receiving a monthly report on surety and asked if it would be possible to also receive a report on inspections.

Mr. Fontneau suggested a report on the number of inspections done on a monthly basis.

Mr. Sylvain stated he would like to see the inspection and surety forms on October 17th.

Discussion of draft overhaul of Site Plan Regulations (development standards only) Chapters VIII and IX.

A. Article VIII - Natural Resources

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Mr. Meader questioned C-4.

Mr. Behrendt stated that these are areas the Planning Board should be aware of.

Mr. Peters felt the items were not well defined and would rather have the items spelled out.

Mr. Fontneau explained that the whole chapter is suggestions and interpretation. The purpose is to give the Planning Board leverage if needed.

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A format correction for “D”

B. Article IX Operational Issues

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None

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Mr. Peters questioned D2. All dumpsters shall be placed on paved surfaces.

Discussion ensued regarding placement of dumpsters on pads.

Mr. Sylvain preferred concrete if the dumpsters needed to be fenced in anyway.

Mr. Peters felt that they should have options.

Mr. Gray suggested the language “dumpsters should be placed on a suitable surface” and then add “for intensive use must be concrete”.

The board concurred.

Ms Larochelle stated that based on her experience working at Waste Management a 2 or 4 yard dumpster may be fine on gravel but a 6 or above really needed to be on some type of pad.

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Mr. Peters questioned E1.

Mr. Sylvain stated they would be covering X, XI, and XII on October 17th.

Other Business

Mr. Martineau asked if the Planning Board can set impact fees.

Mr. Walker stated that the Impact Fee Ordinance is in place but the Planning Board would have to set a table of fees.

Adjournment

A motion was made by Mr. Walker and seconded by Mr. Gray to adjourn at 8:53 pm. The motion carried unanimously.

Respectfully submitted,

Marcia J. Gasses
Planning Secretary