

**City of Rochester  
Planning Board**

Monday October 17, 2011 at 7:00 p.m. Workshop Meeting  
City Council Chambers

31 Wakefield Street, Rochester, NH 03867

*(These minutes were approved on 11/7/2011)*

Members Present

Nel Sylvain, *Chair*

Tim Fontneau, *Vice Chair*

Derek Peters, *Secretary*

Rick Healey

Gloria Larochelle

John Meader

Mark Sullivan

Dave Walker, City Councilor

Members Absent

Stephen Martineau (*excused*)

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.)

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

**Communications from the Chair**

Mr. Sylvain welcomed Mark Sullivan to the board as the City Manager's designee.

**Public Comment**

None

**Discussion of General Planning Issues**

Mr. Sylvain requested subject material from board members for the November retreat. He will be asking the City Manager if the City Engineer could attend to discuss the inspection work sheet and the items they are looking for.

Mr. Peters would like to discuss passed approvals.

Mr. Sullivan asked when Mr. Sylvain would need the information by.

Mr. Sylvain asked that members submit their request by November 7<sup>th</sup>.

Mr. Sylvain requested that Mr. Peters come up with a couple of dates and if there were any staff requests to let him know as soon as possible.

### **Approval of the October 3, 2011 Regular Meeting Minutes**

*A motion was made by Mr. Walker and seconded by Mr. Peters to approve the October 3, 2011 Regular Meeting Minutes. The motion carried unanimously.*

### **Approval of the October 6, 2011 Site Walk at Channings Lane Minutes**

One change was noted. Mr. Healey was in attendance at the Site Walk.

*A motion was made by Mr. Walker and seconded by Mr. Peters to approve the October 6, 2011 Site Walk at Channings Lane Minutes as amended. The motion carried unanimously.*

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### **Continued Applications**

- A. James J. Nyberg Revocable Trust, 120 Washington Street** (by Norway Plains Associates).  
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 explained to the board that the applicant had been to the ZBA last week and obtained a variance for the lesser of the two calculations for parking. Scott Lawler of his office had been working with the City Engineer. Mr. Nourse was concerned about the driveway but realized it had been placed as far away from the intersection as possible. He would like the board to consider approving the application tonight and working through anything of concern with staff.

Mr. Sylvain opened the public hearing.

No one addressed the board.

*A motion was made by Mr. Gray and seconded by Ms. Laroche to accept the application as complete and close the public hearing. The motion carried unanimously.*

Mr. Walker stated that he believed it is an accident waiting to happen. He would be voting against the application and appealed to Dr. Nyberg to work out with the neighbor a different entrance.

Mr. Behrendt explained to the board that the formal plans had been received late on Wednesday. The requirement for submittal is two weeks and a day prior to the meeting. If the board is comfortable the staff and applicant could work out the details. He had two questions, whether the board was comfortable and how they wanted to deal with traffic.

Mr. Sullivan asked for an overview of the application where he was new to the board and not familiar with the project.

Mr. Nickless gave an overview of the application.

Mr. Walker explained it is not the bus drivers speeding causing him concern, but that people are not used to vehicles taking a right into the lot. He felt it was a travesty having a driveway that close to a major intersection.

Mr. Peters expressed that it would have been nice to have the DPW comments sooner.

Mr. Fontneau stated that you could search the site but there was no other place to put the driveway. He felt it would be more dangerous if the entrance was off Washington. The ZBA had done justice to reduce the parking.

Mr. Sullivan asked if the City engineer left his comment open ended or had he given an alternative.

Mr. Fontneau stated that the board had looked at the application in a preliminary form.

*A motion was made by Mr. Gray and seconded by Mr. Meader to approve the application with the inclusion of "no left turn " signs and details to be worked out with the applicant and Planning Department.*

Mr. Walker asked if there was any way to bring this back to the board if the business left.

Mr. Sylvain wanted to see some type of site review take place.

Mr. Gray stated the driveway would still be in the same place if a small professional office was to move in.

Mr. Sullivan questioned the process with the safety concerns that have been brought forward.

Mr. Sylvain stated they would be voting to approve the application with staff working with the applicant to do any fine tuning.

Mr. Peters stated there should be a no left turn sign.

Mr. Fontneau stated the driveway on Washington Street needed to be extinguished and the practice limited to one doctor and her assistants.

Mr. Sylvain asked what the hours of operation were going to be and if they were going to be no more than three days per week.

Mr. Nickless stated yes.

Mr. Gray repeated the motion, with no left turn sign and details to be worked out with staff.

Mr. Sylvain asked Mr. Gray to confirm that his motion included all the items just discussed. Mr. Gray said it does.

*A roll call vote was asked for.*

|              |     |              |     |
|--------------|-----|--------------|-----|
| Mr. Sullivan | NO  | Mr. Gray     | YES |
| Mr. Healey   | YES | Mr. Peters   | NO  |
| Ms. Laroche  | YES | Mr. Fontneau | YES |
| Mr. Meader   | YES | Mr. Sylvain  | NO  |
| Mr. Walker   | NO  |              |     |

The motion carried 5-4.

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

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

Peter Rizzo, the applicant thanked the board for attending the site walk and giving him the opportunity to show members what he proposed. He stated he did not feel he should have to bring underground power to the first two houses.

Mr. Sylvain asked if the driveways were located in the same place prior to the subdivision. Mr. Daly appeared to have a different entrance now.

Discussion ensued.

Loretta Campbell of Channings Lane stated the driveway was changed. The driveway had been located in back of the retention pond. All poles were located along that driveway which now required PSNH to obtain permission from Mr. Fredette prior to servicing the existing poles. Ms. Campbell also questioned what would happen to the 15' easement that exists to install trees.

Mr. Behrendt explained that there were a handful of trees to be installed on lots to be developed and once this was complete or if it was determined the trees would not be necessary the easement would be moot.

Loretta Campbell explained that Mr. Rizzo had planned to install underground utilities to the two lots. Mr. Rizzo had placed a work order with PSNH and the Campbell's had been contacted by PSNH to find out when it would be done because they wanted to take the poles down. PSNH told her they would cancel the work order until they had heard from Mr. Rizzo.

Mr. Sylvain asked if Ms. Campbell would provide the dates of the conversations she had.

Loretta Campbell stated she could provide some of the dates.

Sean Daly, 35 Channings Lane stated that in defense of Mr. Rizzo a lot of the decisions had been made by the board in regard to this property had been prior to Mr. Rizzo's involvement with the project but the underground utilities needed to be installed and the driveways moved. There was a long list of conditions that needed to be met that had been recorded at the Registry of Deeds which included the trees and underground utilities. The current road was the original access point to his property. He had had to give up his driveway to allow this subdivision to go through for a handful of provisions. He disagreed with Mr. Rizzo's statement regarding the value of property because of the poles. PSNH has to get permission from Mr. Fredette to service the poles. He also believed the guardrail should stay where the brook flows under the road.

Mr. Sylvain brought the discussion back to the board but left the public hearing open.

Mr. Peters stated that during the site walk there were areas identified for leaving placement of the guard rails.

*A motion was made by Mr. Walker and seconded by Mr. Peters to approve removal of the requirement for benches.*

Mr. Fontneau disagreed with having a motion for each item. He felt the amendment needed to be approved as one motion, with board discussion on each item.

Mr. Walker withdrew his motion.

Discussion ensued with a consensus to eliminate the requirement for benches and sidewalks.

Mr. Peters recommended the placement of guardrail anywhere the culvert crosses a road for a distance of 20 feet on each side of the road.

Mr. Rizzo expressed disagreement with the requirement for more guardrails.

Discussion ensued.

Mr. Peters recommended a 20 foot section forty feet from the outcropping of ledge where the drop off is.

Mr. Sylvain brought forth the culvert repair, base course repair and 2 foot grave should at the entrance.

Mr. Peters noted the need for a 'no outlet" sign.

Mr. Walker suggested a "Dead-end" sign would be more appropriate.

Mr. Walker stated a cobra head at the entrance should be requested.

Mr. Sylvain stated that the paperwork for the street light request would need to be submitted to the safety committee.

Mr. Peters asked where trees were needed.

Mr. Sylvain stated lots 3 & 7.

Mr. Fontneau suggested having the developer contact the owners and see if they want trees. He would like to leave it up to the owner.

Mr. Sylvain stated the vacant lots would be required to have two trees.

Mr. Healey wished to see all requirements for installation of trees left to the discretion of the owners.

Mr. Peters suggested except for the trees which were never planted between lots 10 & 1.

Discussion ensued regarding the condition being met if there were two trees existing on front of a lot.

Mr. Behrendt brought to the attention of the board that three out of four street lights are not working.

Mr. Rizzo stated the work order for the repairs is #1781036.

Mr. Fontneau stated he was a member of the board when this development had been approved and he assured everyone that it was the intention of the board to have all the utilities underground when the existing homes became part of the subdivision.

Mr. Peters asked if they had received a report back from the City engineer.

Mr. Sylvain asked how the 120 feet of guardrail now compared with what had been proposed.

Mr. Behrendt stated the flexible inlet pipe needed to be cut back, a standard sign that identified the street not accepted and the driveway on the Daly lot needed to be paved.

Mr. Healey asked if the original approval mentioned the Daly driveway should be paved.

Mr. Daley explained there were other documents that referenced the driveway being paved; one even mentioned being paved in the binder coat. There was an agreement recorded between Mr. Daley and Brad & Kate and the driveway paving and the tree line had been his biggest stipulations.

Mr. Daley also explained to the board that the grading on his property is so steep it can not even be cut. In addition he wanted to know if the board had looked at the cut off of the drainage pipe.

Mr. Fontneau told the board that he had found the recorded agreement at the registry and proceeded to read the agreement to the board.

Mr. Sylvain explained that he would need a total from Mr. Rizzo regarding cost for surety purposes and the board needed to establish a timeline for a completion date. If the work had not been completed by the date the board would establish a second date. If the second date was not met the board would have the option to pull the surety if the board desired.

Mr. Walker asked how the issue with the grading on Mr. Daley's lot would be addressed and it was decided Peter Nourse, City engineer would check it.

Mr. Sylvain explained that once the board agreed upon everything discussed the board will get a figure from DPW on the amount of surety needed. If the amount of surety required is greater the applicant will have to come up with more.

Mr. Peters stated that if the amount of surety on hand is too great than the applicant could ask for a release.

Mr. Sylvain stated than in the reverse if more surety is required the applicant would have to come up with more.

*A motion was made by Mr. Fontneau to approve the amendment as discussed this evening. The amendment is approved with all the original conditions of approval being completed and with review of the conditions by Attorney Peter Loughlin.*

Mr. Behrendt suggested items 1-8 in his staff recommendations be included.

Ms. Larochelle discussed trash pick up.

Mr. Sylvain explained the process to Ms. Campbell.

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

*Mr. Healey seconded Mr. Fontneau's motion with the addition of Mr. Rizzo coming back to the board on December 19, 2011 and the review of Mr. Daley's grading by Peter Nourse to the board by November 7, 2011. The motion carried unanimously.*

The board took a short recess.

Mr. Sylvain called the meeting back to order at 8:49 p.m.

### **Review of Surety**

Mr. Fontneau stated that there was nothing new to report.

Mr. Sylvain requested the board be provided the policy for inspections.

Mr. Gray asked if the reports were satisfactory or did he want something else.

Mr. Sylvain asked for a copy of the SOP for Inspections and the SOP for Surety for the November 7<sup>th</sup> meeting.

### **Discussion of draft overhaul of Site Plan Regulations**

The board put off discussion.

### **Adjournment**

*A motion was made by Mr. Fontneau and seconded by Mr. Walker to adjourn at 8:56 p.m. The motion carried unanimously.*

Respectfully submitted,

Marcia J. Gasses  
Planning Secretary  
(These minutes were transcribed from notes)