

**MINUTES of the
PLANNING BOARD MEETING
PORTSMOUTH, NEW HAMPSHIRE**

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

7:00 PM

JUNE 20, 2019

MEMBERS PRESENT: Dexter Legg, Chairman; Elizabeth Moreau, Vice-Chairman; Colby Gamester; Jay Leduc; Jeffrey Kisiel; John P. Bohenko, City Manager; Rebecca Perkins, City Council Representative; Ray Pezzullo, Assistant City Engineer; Corey Clark, Alternate, and Polly Henkel, Alternate

ALSO PRESENT: Juliet Walker, Planner Director

MEMBERS ABSENT: Jody Record

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I. APPROVAL OF MINUTES

A. Approval of Minutes from the May 16, 2019 Planning Board Meeting.

Mr. Gamester moved to approve the minutes from the May 16, 2019 meeting, and Vice-Chair Moreau seconded. Mr. Clark asked that it be noted that he was absent from the vote.

The motion passed unanimously.

II. DETERMINATIONS OF COMPLETENESS

A. **SUBDIVISION REVIEW**

1. The application of **Kapelos Karen E Revocable Trust of 1995 & Kapelos Karen Trustee, Owner, and Raymond Bisson, Applicant**, for property located at **88 & 100 Cardinal Lane** requesting a Lot Line Revision between two lots.

Mr. Leduc moved to determine that the application is complete according to the Subdivision Regulations and to accept the application for consideration, seconded by Vice-Chair Moreau. The motion passed unanimously.

B. **SITE PLAN REVIEW**

1. The application of **The Wentworth Gardner & Tobias Lear Houses Association, Owner, and Stephen Foster, Applicant**, for property located at **49 Hunking Street** requesting Site Plan approval.

Vice-Chair Moreau moved to determine that the application is complete according to the Site Plan Review Regulations and to accept the application for consideration, seconded by Mr. Gamester. The motion passed unanimously.

2. The application of **Lonza Biologics, Owner**, and **Tigue & Bond, Applicant**, for property located at **101 International Drive** requesting Site Plan approval

Mr. Leduc moved to determine that the application is complete according to the Site Plan Review Regulations and to accept the application for consideration, seconded by Mr. Gamester. The motion passed unanimously.

III. ZONING AMENDMENTS - PUBLIC HEARINGS – OLD BUSINESS

A. Petition by residents and homeowners of Chase Drive, Cutts Avenue, Forest Street, and Brigham Lane to reconsider the December 2017 decision to re-zone three properties located along Chase Drive and Cutts Avenue from Single Residence B (SRB) to Gateway Neighborhood Mixed Use Center (G2) and to re-zone the properties back to Single Residence B.

SPEAKING TO THE APPLICATION

Attorney Scott Hogan was present on behalf of the petitioners. He stated that the petitioners lived in a unique residential neighborhood behind the established church use and had concerns about the rezoning of the area from a single-family residential zone (STB) to the new Gateway Neighborhood Mixed Use Center (G2), so they were requesting that it revert back to an SRB zone. He noted that the first application after the zoning change was the Bethel Church petition that requested substantial relief from four provisions on the new zoning ordinance, including height, density, and location, which the neighborhood residents felt were well outside the original intention of the amendment. He said the relief sought was inconsistent with traditional resident uses. He said the Zoning Board of Adjustment (BOA) denied it because it failed three criteria out of five. He said the petitioners' concerns were heightened because the Bethel Church applicant was redesigning their plan to be conforming to the new zoning and included a 4-story building in addition to the existing church and parking. He said the neighbors wanted to engage in a compromise of a hybrid of the Single Residence A or B zoning if the zoning could not revert back to the SRB zone.

PUBLIC HEARING

Ed Richards of 435 Cutts Avenue said the church was subject to the G2 rezoning when it was in an SRB zone and that it made no sense that a non-profit church would want their property rezoned unless they were planning to sell the property. He asked the Board to consider the BOA's decision.

Marilee Clark of 461 Cutts Avenue said the 200 Chase Drive property was not compatible with residential living and that the project would be a permanent influx of people into a small area and would lead to an overly dense population, devalue surrounding homes, and affect public health and well-being.

Bernice Richards of 435 Cutts Avenue said the property was a small parcel of land and mostly a parking lot, and that any building that would fit within the parameters of the G2 zoning on that parcel would mar the area's recent beautification and the bridge.

Sandy O'Brien of 20 Brigham Lane said she didn't want her neighborhood to become the old North End. She noted that other large complexes, like Frank Jones, didn't have houses that close to them.

Kevin O'Brien of 20 Brigham Lane said the Market Street Gateway Corridor Improvement project had beautiful views and was an inviting gateway into the city. He saw it as the 'front door' of Portsmouth and didn't think the City had envisioned a big structure blocking that view.

Gail Peacock of 355 Chase Drive said if the apartment building went up, her home's value would decrease and there would be issues with emergency vehicles accessing the area.

Marian Gauthier of Brigham Lane said a BOA board member stated that the project would devalue her property. She passed out photos of the parking lot showing that a new building would add more cars.

Kelly Boston of 465 Cutts Avenue said she had fought an assisted living facility project years before because it didn't fit. She asked the Board to consider changing the zoning back to SRB.

Robin Young of 470 Cutts Avenue said he was concerned about the zoning change and property values as well as additional traffic. He asked that the zoning be changed back to residential.

Jason Greene of 29 Brigham Lane noted that the first project out of the gate after the zoning change was opposite of the artist's conception that showed low-rise buildings and was a welcome environment.

Roger Gauthier of 36 Brigham Lane said the applicants went before the BOA with a 5-story proposal that was rejected, and then returned with something similar but disguised.

Second-Time Speakers

Attorney Hogan said that, even if there were Board members who could not make a recommendation to revert to SRB zoning, the petitioners would engage in a process to provide more information.

Sandy O'Brien of 20 Brigham Lane noted that the church parking lot was completely full on Sundays and weekdays and, if taken away, it would go elsewhere.

Ed Richards of 435 Cutts Avenue said the neighbors looked forward to the development of the park at the tidal pond but wondered where people would park if the church lot was converted to buildings.

Chairman Legg asked if anyone else was present from the public wishing to speak to, for, or against the petition. Seeing no one rise, the Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Vice-Chair Moreau asked if the Board had looked at other residential districts that were higher density than the SRB. Ms. Walker said there was some discussion about having a third in-between zone, and that the site was unique because it was one of the rezoned areas that directly abutted single residences. She said the Board previously saw the project as a preliminary conceptual design but now the applicant was working on a development site, which would require a Conditional User Permit (CUP) from the Board as well as a site plan. She said the applicant wouldn't be grandfathered in until the design review process or a public hearing was advertised. Mr. Gamester asked if the Board was concerned about spot zoning. Ms. Walker said the Board could consider the whole area if they decided to look at a modified version.

Vice-Chair Moreau moved to refer to the Planning Department Staff for a report back with potential modifications to the current G2 zoning in this location that would address some of the concerns raised by neighborhood residents in their petition for rezoning, seconded by Mr. Gamester. The motion passed unanimously.

City Council Representative Perkins said the Board had gone through an extensive process to come up with the new zoning and that the zoning change was made to attract young people and families to Portsmouth. She said she could consider something less dense but was inclined to not vote for a zoning change just because of how recent and extensive the public process had been. Chairman Legg said reverting the zoning back to SRB was a non-starter for him, and that the Gateway zones were established to benefit everyone in the City and create more affordable housing. He said the Board had discussed placing G3 zoning on the site but thought G2 would be easier to manage. He said he was willing, however, to go through the process. Mr. Gamester said he thought that SRB was probably inappropriate but was something he would consider.

IV. PUBLIC HEARINGS – OLD BUSINESS

A. The application of **Great Rhythm Brewing Company, LLC, Applicant** and **Clipper Traders, LLC** for property located at **105 Bartlett Street** requesting a Conditional Use Permit in accordance with Sections 10.240 and 10.440 (#19.50) of the Zoning Ordinance to allow an Outdoor Dining or Drinking Area as an accessory use. Said property is shown on Assessor Map 157 as Lot 1 and lies within the Character District 4-W (CD4-W) District. LU #19-71.

SPEAKING TO THE APPLICATION

Attorney Derek Durbin was present on behalf of the applicant. He introduced the owners Scott and Kristen Thornton and the sound consultant Eric Reuter. Attorney Durbin said the petition was to utilize an outside area on a seasonal basis. He said it would be a natural extension of the tasting room and would involve just beer and no food service. He said the owners wanted to put six picnic tables outside during the warmer months as well as lawn games. He said no vegetation or trees near the wetland buffer would be affected. He said the planned occupancy was 48 people, with hours of operation until 8 p.m., and that no additional lighting would be installed except for perhaps string lights. He said no live music was proposed, nor speakers or projected music to the outward area. He noted that Ms. Thornton held a meeting with the nearby residents on June 3 and that their concerns included the existing noise inside the brewery, so Ms. Thornton hired a sound engineer to measure noise. He said the outdoor area would be fenced in.

Chairman Legg said he didn't see any mention of lawn games in the packet. Attorney Durbin said it was something similar to the nearby Liar's Bench brewery and included cornhole and Jenga games. City Council Representative Perkins said an abutter's letter proposed compromises, including a sound barrier near the doors to block the industrial noise. Attorney Durbin said the owners were considering the options but didn't want to commit to anything until they knew the cost involved. Vice-Chair Moreau said the additional 800 s.f. would double the size of the facility and be very noisy if the inside and outside were full. She asked if the outside space could be made smaller. Attorney Durbin said it would happen infrequently because most times the tasting room was not at full capacity.

Mr. Reuter said he submitted a report on noise coming out of the building. He said the patio area would not contain amplified music or mechanical equipment that would generate noise, and that human speak would be the only source of noise. He said his company investigated potential adverse impacts on the residents and whether the source of noise would exceed or approach existing noise in the environment. He said they studied 130 Clinton Street, where the lawn turned into wetlands, and measured the sound levels over a weekend, then did another measurement at a similar establishment on a Saturday afternoon that had 45 people in attendance. He said the difference between 45 and 48 people was not consequential and that the extrapolated data with added reflective surface of water over two hours measured 38 dB. He said he plotted the Clinton Street sound levels and the open hours of Great Rhythm, and the 39 dBa was well below any

existing sound level during open hours. He concluded that there was no adverse impact on any residents from the proposed outdoor area.

Mr. Clark asked whether the noise from Ricci Lumber was included. Mr. Reuter said it was part of the existing environment. Mr. Clark asked whether the red line on the graph associated with the outdoor patrons wouldn't be noticeable because the blue line was higher. Mr. Reuter agreed and further explained it. Ms. Henkel asked what the neighbors were hearing if the noise from the patrons wouldn't be audible. Mr. Reuter said it was limited to the outdoor area and that the neighbors were hearing sound from inside the building because the interior spaces were a reverberating environment that reflected sound in a room, mechanical equipment and people speaking. He said outside noises had no reflected sound.

City Council Representative Perkins referred to an abutter's letter stating that during the weekend when sound was measured, there wasn't the typical amount of noise at the brewery. She asked how the Board could verify that the study captured the normal amount of noise. Mr. Reuter said there was no benefit to the applicant by limiting the noise on that particular weekend because it would make the picture more favorable for them, and if it had been louder, the difference between the estimated sound pressure level from the patio and the existing ambient condition would be greater. He said there was no sudden drop in the measurement when the brewery closed, and that it got louder at 10 p.m. so there were clearly other sources of noise in the environment that were more significant. Ms. Perkins said there was an allegation that music was not being played. Mr. Reuter said the brewery staff didn't know that the test was being performed, and if the sound levels were lower than normal, it would drive the ambient levels downward and put it closer to what was projected for the outdoor space. Ms. Perkins asked how much difference it made what the outdoor capacity was, based on the fact that there was human speech and normal noise, and what the difference was in noise levels by having 12 people vs. 48 people. Mr. Reuter said that any doubling or halving of the number of patrons would be a change of three decibels.

Mr. Leduc asked if there was any effort to minimize current noise. Mr. Reuter said they were trying to change the way that the music system interacted with the room and also with the patrons inside the building. He said the report was limited to the application because it was focused on what had changed from the existing condition to a condition of an outdoor patio. Mr. Gamester asked if the estimate for the red line that had been weighted and changed for the environment was weighted by distance, the water, and other factors that went into the model. Mr. Reuter agreed.

Scott and Kristen Thornton said they met with the neighbors to hear their concerns. Ms. Thornton said they wanted to be good neighbors, but the tasting room was the lifeblood of their brewery, and the outdoor seating might attract more customers. Mr. Thornton said there were a lot of issues brought up at the BOA meeting regarding the noise over the pond and that they originally thought that the outside was included in the approval. He said they had heard more concerns since then, but there were some things indicated in the letters that weren't true. He said he hired Mr. Reuter to do the sound study because they had always been conscious of the noise level. Vice-Chair Moreau asked whether the outside patio could be made smaller. Mr. Thornton said the outside area was a lot bigger than the requested square footage relief and that they shrunk it down to a reasonable capacity of 48 people. Vice-Chair Moreau asked if the lawn game area would be rowdy. Mr. Thornton said it would be a space where families could walk around in. He said there was an existing fence but that they could contain the area further with landscaping and plantings. Vice-Chair Moreau recommended that evergreen buffers be between the patio and the pond to absorb any sound.

Chairman Legg asked whether the reading would be as high in a different neighborhood. Mr. Reuter said there were loud sources, like the lumber company, but that they weren't particularly loud. Chairman Legg asked if the data indicated a dramatic or steady range over 24 hours. Mr. Reuter said some of it was driven

by traffic noise. He said there was anomalous noise between 4 and 7 a.m. on a Saturday, which was a typical set of limits, noting that new developments were 45 dB at night and 55 dB during the day, so it fit neatly into that. He said the patio congregations wouldn't increase the blue line. He said the point of the data was to show that adding outdoor activity would not change anything. Vice-Chair Moreau thought that 45 people talking at once would sound louder than the decibel that each person was speaking. Mr. Reuter said it would be half of them, and that the red line would be much lower for one person speaking. Ms. Perkins asked what other noises were 38 decibels. Mr. Reuter said an interior background sound level in a home that included people speaking, the television on, and outside traffic was a low number.

PUBLIC HEARING

Craig Hood of 139 Clinton Street stated that Great Rhythm and the dog daycare were sources of noise that should be contained. He said he an increase might discourage people from staying in their homes.

Amy Hood of 139 Clinton Street said she found it hard to believe that the noise volume would not increase with the outside patio. She said it wasn't the volume as much as the articulation.

Nancy Johnson of 81 Clinton Street said the BOA denied the patio because the value of surrounding properties would be impacted. She said the tasting room was small and noisy, and that the two bay windows facing the pond were more like large garage-style doors that let the noise go across the pond.

Elizabeth Bratter of 159 McDonough Street said the pond was a protected habitat that the outdoor area would affect, and that natural resources had to be protected from human encroachment.

Scott Coate of 110 Clinton Street said he could hear every conversation from the tasting room when the doors were open felt that the decibel levels would rise when people were drinking and playing games.

Maggy Coate of 110 Clinton Street said she came home from work and wanted to sit on her deck and relax but had to listen to the conversations from the brewery.

Abigail Gindele of 229 Clinton Street said she had noticed that the brewery personnel were on their best behavior ever since they petitioned for the Conditional Use Permit.

Matt Boyer of 152 Clinton Street said the sound study was done over four days and was the brewery was very quiet during that period, so the sound study was not representative of the noise on a typical weekend.

Claire Dube of Stark Street said the outdoor seating could get very loud whether someone was drinking alcohol or not, and when people who were drinking started playing games, the volume went up.

Second-time Speakers

Elizabeth Bradley of 159 McDonough Street said brewery patrons who went in and out of the tasting room were allowed more beer than if they just stayed in the tasting room. She asked what noise would be generated when the brewery opened at 6 a.m. and people were cleaning after 8 p.m.

Matt Boyer of 152 Clinton Street said the BOA rejected the 2016 request and that a member had noted that the noise traveled over water and that the neighbors had a right to peace and quiet. He said the public interest overrode the interest to have an outside bar and that the proposal had failed four out of five criteria.

Third-time Speakers

Attorney Durbin said he was at the neighbors meeting and that he was sure that the letters were what spurred Great Rhythm to consider options to reduce noise. He said he didn't find credible the statements that the results were skewed, and even if they were, it didn't change the red line level. He said the BOA's 2016 decision was made under different standards and zoning, when the brewery did not have a permitted accessory use. He said a letter from a realtor stated that value would be added with the accessory use.

Scott Thornton said the neighbors probably thought the brewery had lowered sound for the sound study because the speakers were repositioned after the meeting.

Elizabeth Bradley said the neighborhoods in general and the North Mill Pond and its wildlife should be protected. She asked the Board to deny the CUP for outdoor seating.

Chairman Legg asked if anyone else was present from the public wishing to speak to, for, or against the petition. Seeing no one rise, the Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Chairman Legg asked whether it would be appropriate to ask the Conservation Commission to consider an advisory review because of the wetland buffer area. Vice-Chair Moreau said if it was true that the property owner cut down trees in the buffer without permission, the Conservation Commission should investigate the area to ensure that nothing was done inappropriately. Chairman Legg said the petition was a complex issue and felt that the Board needed more data. Ms. Henkel asked whether an outdoor recreation area was allowed in that zone. Ms. Walker said the lawn area was a natural extension of the outdoor dining area and that the Board should consider whether it was something they wanted to limit as part of the CUP. She noted that lawn games were not a natural extension of an indoor tasting room and wouldn't necessarily be something that would be allowed without the outdoor use. Vice-Chair Moreau said the Conservation Commission should look into it and also thought the Board should get a third opinion on the sound evaluation. Ms. Perkins said it seemed clear that nothing proposed was a violation of the existing ordinance, and she asked how the Board would consider the inside noise. Ms. Walker said that unless the outdoor use created a significant impact of noise and there was a solution to reduce the overall noise, she didn't know if the applicant could be required to reduce the inside use that was already allowed. Mr. Leduc said he believed the study but felt that being outside was different than being inside. He noted that the inside noise was already a nuisance. Ms. Walker recommended that the Board get more technical expertise. City Manager Bohenko said he had confidence in Mr. Reuter's study and thought it told the Board members what they needed to know.

Mr. Gamester moved to find that the proposal met the Conditional Use Permit criteria as listed in Section 10.243.20 of the Zoning Ordinance, and City Council Representative Perkins seconded.

Chairman Legg did a roll call (excluding Mr. Clark). The motion passed by a vote of 6-3, with Vice-Chair Moreau, Mr. Leduc, and Chairman Legg voting against the motion.

Mr. Gamester voted to grant the Conditional Use Permit as presented with the following conditions:

- 2.1) Hours of operation for the outdoor dining area shall be limited to Monday through Saturday 12 p.m. to 8 p.m. and Sunday 12 p.m. to 6 p.m.
- 2.2) No outdoor music or amplification shall be allowed or used in the approved outdoor area.

- 2.3) The outdoor area shall be delineated by a temporary removable fence or other barrier approved by the Planning Department.
- 2.4) The existing vegetative buffer along the waterfront shall remain in place and be supplemented with additional vegetation as permitted by applicable wetland protection regulations to serve as an additional sound buffer. Any additional plantings shall be reviewed and approved by the Planning Department prior to planting.
- 2.5) Prior to issuance of a Change of Use/Building Permit, the proposal shall be reviewed by the Conservation Commission to make recommendations on any additional protections for the wetland buffer area related to this use. The Conditional Use Permit shall be subject to any additional recommendations of the Conservation Commission related to protection of the wetland buffer area.
- 2.6) The approval is for the outdoor drinking area only and does not include approval of the proposed lawn game area as noted on the submitted plans.

City Council Representative Perkins seconded. The motion passed, favored by everyone except Vice-Chair Moreau.

IV. PUBLIC HEARINGS – NEW BUSINESS

A. The application of **Kapelos Karen E Revocable Trust of 1995 & Kapelos Karen Trustee, Owner, and Raymond Bisson, Applicant**, for property located at **88 & 100 Cardinal Lane** requesting Preliminary and Final Subdivision approval (Lot Line Revision) between two lots as follows: Lot 247 as shown on Assessor Map 292 decreasing in area from 22,448 s.f. to 16,682 s.f. with 125' of continuous street frontage on Cardinal Lane and 140' of street frontage on Lafayette Road; and Lot 164 as shown on Assessor Map 292 increasing in area from 18,845 s.f. to 24,610 s.f. with 175' of continuous street frontage on Cardinal Lane. Said properties are located in the Single-Residence B (SRB) District where the minimum lot size is 15,000 s.f. and minimum street frontage requirement is 100'. LU #19-90.

SPEAKING TO THE APPLICATION

Ray Bisson of Stonewall Surveying was present on behalf of the applicant. He said the request was to move the existing property line that was close to the applicant's house further away so that the driveway could be more reasonable. He said both driveways would still come off Cardinal Lane but would slide a bit further, and the existing driveway would still be closed.

PUBLIC HEARING

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the petition. Seeing no one rise, the Chair closed the public hearing.

DECISION OF THE BOARD

Vice-Chair Moreau moved to grant Preliminary and Final Subdivision Approval, with the following stipulations:

- 1.1) Lot numbers as determined by the Assessor shall be added to the final plat.
- 1.2) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
- 1.3) GIS data shall be provided to the Department of Public Works in the form as required by the City.

- 1.4) The final plat shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

Mr. Gamester seconded. The motion passed unanimously.

B. The application of **The Wentworth Gardner & Tobias Lear Houses Association, Owner**, and **Stephen Foster, Applicant**, for property located at **49 Hunking Street** requesting Site Plan approval for a 162 s.f. addition with related utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 103 as Lot 39 and lies within the General Residence B (GRB) and Historic Overlay Districts. LU #19-96.

SPEAKING TO THE APPLICATION

John Chagnon of Ambit Engineers was present on behalf of the applicant and introduced the project architect Brendan McNamara and the applicant Stephen Foster. Mr. Chagnon said the applicant wanted to repurpose the Tobias Lear House from a museum to an inn. He said they wanted to remove an existing addition that was in disrepair and construct a new addition that would allow utilities to be housed and preserve the main house. He said they also wanted to do a drip edge around the building and add a landscaping wall on the property's westerly side. He noted that the project received all the necessary approvals and that the Planning Board's approval was the last step in the process.

PUBLIC HEARING

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the petition. Seeing no one rise, the Chair closed the public hearing.

DECISION OF THE BOARD

Vice-Chair Moreau moved to grant Site Plan Review Approval with the following stipulations:

- 1.1) The Site Plan (Sheet C2) shall be updated to include metes and bounds for the lot.
- 1.2) The Site Plan shall be reviewed for pre-approval by the Rockingham County Registry of Deeds and subsequently recorded, as deemed appropriate by the Planning Department.

Mr. Gamester seconded. The motion passed unanimously.

C. The application of **Lonza Biologics, Owner**, and **Tighe & Bond, Applicant**, for property located at **101 International Drive** requesting Site Plan Review approval to construct a building addition with a footprint of 500 s.f. and gross floor area of 500 s.f.; replacement of an existing 1,500-gallon nitrogen tank to a new 6,000-gallon nitrogen tank and upgrade of an existing concrete pad; installation of two (2) new generators with 3,312-gallon diesel fuel above ground storage tanks (AST), a transformer pad, switchgear housed in an enclosure, automatic transfer switch in an enclosure and associated retaining wall. Said property is shown on Assessor Map 305 as Lot 6 and lies within the Airport Business and Commercial (ABC) Districts. LU #19-99.

SPEAKING TO THE APPLICATION

Attorney Patrick Crimmins representing the applicant was present and stated that they were seeking site plan approval for an electric transformer pad. He said it was a small project that would be located in the rear of the building. He noted that they would implement a stormwater treatment plan as well.

Vice-Chair Moreau asked if it was for the existing building only. Attorney Crimmins agreed and said it would support the on-growing fit-up occurring inside the building.

PUBLIC HEARING

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the petition. Seeing no one rise, the Chair closed the public hearing.

DECISION OF THE BOARD

Vice-Chair Moreau moved to recommend Site Plan Review Approval to the Pease Development Authority (PDA) of the application as presented, seconded by Mr. Gamester. The motion passed unanimously.

D. The application of **Borthwick Forest, LLC, Owner**, for property located on **Borthwick Avenue and Islington Street**, requesting Amended Site Plan Review approval for the conversion of a ground level parking garage to office space and associated parking lot expansion and related stormwater management improvements. Said property is shown on Assessor Map 241 as Lot 25 and Lot 26 and lies within the Office Research (OR) District. LU #19-95.

SPEAKING TO THE APPLICATION

Attorney Patrick Crimmins representing the applicant stated that the request was driven by the tenant's request for additional space in the building. He said there would be no changes to the subdivision approval. He reviewed the design change, noting that there would be one lane of additional parking. He said they were requesting a reserved parking area planned but were trying to minimize impervious surface and would only use it in the future if needed. He said there were no stormwater issues related to the added aisle of parking, and two raingardens were proposed if the reserved parking area was built. He said the total required parking was 268 spaces and that they were providing 274, but they were requesting that 218 spaces be built and that 56 spaces be reserved for future parking and built if needed. He said they met with TAC and received a recommendation for approval from the Board, with the stipulation of providing a trip generation memo to the City's traffic engineer, which was done. He said the City determined that a full traffic study was not required. He said the truck turning templates were approved but were a bit tight, so one spot was removed, and the bike lane was shifted.

Mr. Clark verified that an amended AOT permit would not be needed since an additional parking aisle was provided. He asked whether the project would have to meet the new 15 percent criteria. Attorney Crimmins said it would if they installed the raingarden. In response to City Council Representative Perkins' question, Attorney Crimmins said 200 spaces were previously required but 268 spaces were presently required and that they were proposing 218 spaces.

PUBLIC HEARING

Rick Becksted of 1395 Islington Street said he had no objections to the proposal but wanted the City Staff to strike multiple mentions of an emergency access on the multi-purpose path. He said it a misuse of words and that there would never be a connection between Borthwick Avenue and Islington Street. Chairman Legg said it wasn't relevant to the Board's action. Ms. Walker said she would resolve the issue.

Chairman Legg asked if anyone else was present from the public wishing to speak to, for, or against the petition. Seeing no one rise, the Chair closed the public hearing.

DECISION OF THE BOARD

Vice-Chair Moreau moved to grant Amended Site Plan Approval with the following stipulations:

- 1.1) Prior to construction of the reserve parking area in the future, the plans shall be submitted to the Conservation Commission for review.
- 1.2) The required note referencing the Stormwater Maintenance Plan and annual inspection and maintenance schedule shall be included on the recordable plan sheet.
- 1.3) The Stormwater Maintenance Plan shall be updated to revise Section 1.3.3 to note that any updates to the plan (and deed) will require further review and approval as required by the Site Plan Review Regulations.
- 1.4) The site plan shall be reviewed for pre-approval by the Rockingham County Registry of Deeds and subsequently recorded, as deemed appropriate by the Planning Department.

Mr. Gamester seconded. The motion passed unanimously.

E. The application of **ADL Portsmouth Residence Trust, Owner** and **MSC a division of TFMoran, Applicant** for property located at **325 Little Harbor Road** requesting a Conditional Use Permit for the conversion of an existing accessory structure (formerly caretaker's home) into a Detached Accessory Dwelling Unit with a gross floor area of 2,435 s.f. Said property is shown on Assessor Map 205 as Lot 2 and lies within the Rural (R) District. LU #19-75.

Chairman Legg recused himself, and Vice-Chair Moreau assumed his seat as Chair. Ms. Henkel also recused herself from the petition.

SPEAKING TO THE APPLICATION

J. Corey Colwell of TF McCann representing the applicant was present and introduced Alan Sturgiss of Preservation Timber Framing and the project contractor Peter Cassinet. He said they wanted to convert a caretaker's house into a detached unit. He reviewed the history of the property and said the caretaker's house had been vacant since the mid-90s and slated for demolition, but the owner wanted to retain it due to its historic character and renovate it into a detached ADU. Mr. Colwell reviewed the site plan and discussed the utilities. He reviewed the ten criteria and said they would be met, with the exception that they wanted to keep the existing three bedrooms and not reduce it to the required one-bedroom house.

Acting-Chair Moreau said she had some heartburn over the large size of the ADU and asked the applicant if he had sought any other ways of getting the second dwelling approved without using the ADU law. Mr. Colwell said the applicant had but felt that the ADU was less of a request than trying to prove a hardship to get a variance. Acting-Chair Moreau said the request was for more than twice the square footage allowed. Mr. Colwell said the maximum square footage could be 1,000 feet provided that the lot was two acres, and there were 12 acres. He said if they complied with the 1,000 feet, the timber frame could not remain intact. He said the caretaker's house had historic significance, which was the reason they were requesting that those requirements be waived.

PUBLIC HEARING

Vice-Chair Moreau asked if anyone was present from the public wishing to speak to, for, or against the petition. Seeing no one rise, the Vice Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

City Council Representative Perkins moved to grant a modification from the ordinance for the following sections, seconded by Mr. Gamester:

- 1.1) Section 10.814.52 of the Zoning Ordinance – for approval of a DADU with 3 bedrooms and 2,435 +/- s.f. of gross floor area where 2 bedrooms and 1,000 s.f. is the maximum allowed.
- 1.2) Section 10.814.532 of the Zoning Ordinance – for a building height of 24.2' where the maximum allowed must be less than the building height of the principal single-family dwelling.

City Council Representative Perkins said the request was a big deviation from the ADU ordinance and asked whether the term 'garden cottage' was the right classification for the structure. Ms. Walker noted that it could be a garden cottage, due to its size, and that the Planning Department felt that it was more appropriate as an attached ADU. City Manager Bohenko said he had concerns about the size of the ADU and asked if it would set a precedent. Ms. Walker said there were unique aspects to the application because the structure was located on an island and the existing principal structure was fairly large, as was the lot. She said a subdivision was also an option for them and would change the nature of the ADU. Mr. Gamester explained why he didn't think it would be precedent-setting. Acting Chair Moreau made it clear that her approval for something that big would only be for something on a 12-acre island.

The motion passed unanimously.

Mr. Gamester moved to find that the application satisfies the remaining requirements of Section 10.814.50, and Mr. Leduc seconded. The motion passed unanimously.

Mr. Gamester moved to grant the Conditional Use Permit as presented with the following stipulation:

- 3.1) In accordance with Section 10.814.90 of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of Section 10.814, including the owner-occupancy requirement, and shall renew the certificate of use annually.

Mr. Clark seconded. The motion passed unanimously.

F. The application of **Daniel Cook and Shea Cook, Owners**, for property located at **150 Brackett Road** requesting an amendment to the Wetland Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for the location of stairs from the deck which was the subject of a prior approval. The new stairs will create a new impact of 35 square feet in the tidal wetland buffer zone. Said property is shown on Assessor Map 207 as Lot 72 and lies within the Single Residence B (SRB) District. LU #19-88.

Chairman Legg resumed his seat as Chair; Acting Chair Moreau resumed her seat as Vice-Chair; and Ms. Henkel resumed her voting seat.

SPEAKING TO THE APPLICATION

The applicant Daniel Cook said he reconstructed a deck and wanted to relocate and enlarge the steps. He reviewed the site plan and said the deck would be out of the wooded area and wetland.

PUBLIC HEARING

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the petition. Seeing no one rise, the Chair closed the public hearing.

DECISION OF THE BOARD

Vice-Chair Moreau moved to grant the Wetland Conditional Use Permit as presented, and Mr. Gamester seconded. The motion passed unanimously.

It was moved, seconded, and passed to continue the meeting to June 27, 2019.

VI. ADJOURNMENT

Mr. Gamester moved to adjourn the meeting at 10:45 p.m., seconded by Vice-Chair Moreau. The motion passed unanimously.

Respectfully submitted,

Joann Breault
Acting Secretary for the Planning Board