

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

Remote Meeting Via Zoom Conference Call

Per NH RSA 91-A:2, III (b) the Chair has declared the COVID-19 outbreak an emergency and has waived the requirement that a quorum be physically present at the meeting pursuant to the Governor's Executive Order 2020-04, Section 8, as extended by Executive Order 2021-01, and Emergency Order #12, Section 3. Members will be participating remotely and will identify their location and any person present with them at that location. All votes will be by roll call.

7:00 pm

FEBRUARY 25, 2021

MINUTES

MEMBERS PRESENT: Dexter Legg, Chair; Elizabeth Moreau, Vice Chair Karen Conard, City Manager; Peter Whelan, City Council Representative; Ray Pezzullo, Assistant City Engineer; Colby Gamester; Rick Chellman; Polly Henkel, Alternate

ALSO PRESENT: Juliet Walker, Planner Director;

MEMBERS ABSENT: Corey Clark, Peter Harris

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Chairman Legg commented that before they got to the agenda Ms. Walker was prepared to give more background on the intent of the wetland boundary markers.

Ms. Walker commented that Staff did not prepare the Board as well as they could have. The changes were adopted to the wetland's ordinance in December 2019. Members on the Planning Board adopted a number of measures to help protect wetlands and buffers. The changes focused on more delineation, clearer guidelines on what should or should not happen in the wetland and buffer, and what should be included in the application. Part of it was educating property owners on wetland protections and implementing long term protections. One issue that they tried to address was that property owners buy a property that may have previously had a CUP granted. The current owners may not be aware of the wetland boundary. The discussion was to have some kind of permanent marker on the wetland boundary wherever possible. The markers are not for the buffer boundary. This has been implemented for about a year now. There have been discussions with the Conservation Commission about delineating the buffer for certain projects, this is not required. The buffer delineation was to make sure there is caution around the buffer during construction. The wetland marker is a vague requirement to allow for Staff discretion. That allows Staff to work with applicants on what type of markers are used and the frequency. Ms. Walker did not support changing that item in the ordinance at this point, but they should keep that in mind to see how it goes in the short term.

Ms. Henkel requested clarification that the requirement was just for the wetland boundary and not the buffer boundary as well. Ms. Walker confirmed that was correct. The two applications last week had to delineate the buffer during construction at the request of the Conservation Commission. It is not permanent. They can add the stipulation for buffer delineation, but it is not a requirement. Ms. Henkel commented that it would be helpful if Staff could indicate what is required or not.

Chairman Legg noted that the reality is that the wetland markers are part of the ordinance, so it should not be listed as a stipulation.

Mr. Chellman commented that he supported a change in the ordinance to reflect how it's been implemented. It should be revised to say something to the effect that periodic wetland boundary markers are required at the wetland boundary as makes sense by Staff.

Chairman Legg commented that they could add something to soften the language. Ms. Walker confirmed that it could be added to the list of housekeeping items to address.

I. PUBLIC HEARING – NEW BUSINESS

- A. The application of **Jenna & Patrick Thomson, Owners**, for property located at **225 Spinney Road** requesting Conditional Use Permit approval in accordance with Section 10.814 of the Zoning Ordinance for the construction of an Attached Accessory Dwelling Unit of 720 square feet gross floor area. Said property is shown on Assessor Map 169 Lot 3 and lies within the Single Residence B (SRB) District.

SPEAKING TO THE APPLICATION

Peggy Cooke spoke to the application. The proposal is to complete an in-law apartment above the garage. The structure already exists. The intent is to just finish the inside. Nothing is changing on the outside of the structure.

Vice Chairman Moreau questioned if there was an interior door between the attached dwelling unit and the house. Ms. Cooke responded that a mudroom connected the house to the garage. The apartment was above the garage. Vice Chairman Moreau questioned if there were interior stairs between the ADU and the garage. Ms. Cooke responded that there were only exterior stairs. Ms. Walker commented that it was their understanding there was an interior connection. That is a requirement of the ordinance. It would require a waiver from the Planning Board to grant this.

Vice Chairman Moreau questioned if there was a place to put an interior door. Ms. Cooke responded that there was not an opportunity for an interior door to the house because the mud room was only on the first floor. The unit is on the second floor. Vice Chairman Moreau questioned if they could put a door inside the garage that led to the unit. Ms. Cooke responded that the mudroom door goes into the garage and the garage door goes to the external steps. There isn't an opportunity for an interior door.

Mr. Chellman questioned if they could consider it a detached ADU. Vice Chairman Moreau responded that they could not because there was a setback requirement for that.

Ms. Henkel questioned if there were any contiguous walls between the apartment and the house. Ms. Cooke responded that there was not.

Ms. Walker commented that the Board could grant a waiver if they felt it was appropriate. The intention of the interior door was to make it so they were not two separate units. They should be connected to each other. It was to prevent them from becoming a duplex.

Chairman Legg questioned if the breezeway was living space. Ms. Cooke responded that it was entry space. Chairman Legg questioned if there was room in there to have an interior stairway to the ADU. Ms. Cooke responded there was not. The room is only 8 by 10 feet.

Mr. Chellman questioned what was in the space now. Ms. Cooke responded that it was studded for an apartment and there were windows and electricity. They need to add flooring, walls and plumbing.

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.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau commented that this was the perfect size for an ADU and as long as it meets fire safety code, then she agreed to waive the interior door requirement.

- 1) Vice Chairman Moreau moved to **grant** the request to waive the requirement set forth in Section 10.814.41 that an interior door shall be provided between the principal dwelling unit and the accessory dwelling unit and to find that such modification will be consistent with the required findings in Section 10.814.60, seconded by Mr. Gamester.

The motion passed unanimously.

- 2) Vice Chairman Moreau moved to find that the application satisfies the requirements of 10.814.60 and to grant the conditional use permit as presented, seconded by Mr. Gamester with the following stipulation:
 - 2.1) 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.

Vice Chairman Moreau commented that she appreciated the applicant tried to troubleshoot the door issue. Because this fits the zoning in all other aspects, the Vice Chairman was willing to support this application. Chairman Legg agreed.

The motion passed unanimously.

- B. Application of **Robert Vaccaro, Owner**, for property located at **411 Middle Street** requesting Conditional Use Permit approval in accordance with Section 10.1112.14 of the Zoning Ordinance for provision of 9 on-site parking spaces where 11 spaces are required. Said property is shown on Assessor Map 135 Lot 2 and lies within the Mixed Residential Office (MRO) District.

SPEAKING TO THE APPLICATION

Robert Vaccaro spoke to the application. This is an 1860s mansion that has been turned into an apartment house. The Board of Adjustments has granted approval to make 6 dwelling units into 8 units. The application is to allow 9 parking spaces instead of 11. The Technical Advisory Committee agreed with the application's calculations based on the square footage of the 8 apartments. There are two large apartments and 6 smaller ones. The smaller ones would require 1.5 spaces. The current parking plan was implemented 20 years ago after a variance was granted for a smaller turnaround. There is an abundant parking supply on that segment of Middle St. The building is located in a mixed residential office zone. There are three office buildings to the left and one to the right. Offices require daytime parking vs. residential which needs evening parking. The Masonic Temple and the James E Whalley Museum require little parking on Middle St. There are four transit stops close by. There have always been tenants that are car free. The application includes letters of support from the closest residential abutters.

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.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to **grant** this request as presented, seconded by Mr. Gamester.

Vice Chairman Moreau commented that she followed this through the ZBA and read the letters of support. The amount of support was overwhelming. The amount of parking provided is more than appropriate.

The motion passed unanimously.

- C. Application of the **Pease Development Authority, Owner, and Lonza, Applicant**, for property located at **70 Corporate Drive** requesting renewal of a previously approved Conditional Use Permit, under Chapter 300 of the Pease Land Use Controls, Part 304-A Pease Wetlands Protection, for work within the inland wetland buffer for the construction of three proposed industrial buildings: Proposed Building #1 with a 132,000+ s.f. footprint; Proposed Building #2 with a 150,000+ s.f. footprint; Proposed Building #3 with a 62,000+ s.f. footprint; and two 4-story parking garages, with 55,555+ s.f. of impact to the wetland, 66,852+ s.f. of impact to the wetland buffer and a 1,000+ l.f. stream restoration for Hodgson Brook resulting in 42,500 s.f. of wetland creation. Said property is shown on Assessor Map 305 Lot 1 and lies within the (ABC) District.

DISCUSSION AND DECISION OF THE BOARD

Mr. Gamester moved to **postpone** this request to the next Planning Board meeting, seconded by City Manager Conard. The motion passed unanimously.

- D. Application of **CLJR, LLC, Owner**, for property located at **6 Robert Avenue** requesting Conditional Use Permit approval in accordance with Section 10.1112.14 of the Zoning Ordinance for provision of 10 on-site parking spaces where 18 spaces are required. Said property is shown on Assessor Map 286 Lot 17 and lies within the (G1) District.

SPEAKING TO THE APPLICATION

Bob Marchewka spoke to the application. The application is for a CUP to allow 10.5 parking spaces where 17 are required. The plan is for a martial arts center to move into the building and utilize 4,300 sf of space. A martial arts center is categorized under health clubs, which requires a fair number of spaces. However, a martial arts center doesn't use as many spaces as a health club. They operate by different model. Historically, they have used about 5 spaces.

Mr. Chellman questioned if they would be using a portion of the existing lot. Mr. Marchewka responded that was correct. There are 17 spaces, and the applicant will use half of those. There will be 5.5 spaces in the front and 5 in the rear.

Vice Chairman Moreau questioned who the other tenant was. Mr. Marchewka responded that they make countertops and other items out of stone. They do not have a big retail presence. They are mostly by appointment.

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.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to **grant** this request as presented, seconded by City Council Representative Whelan. The motion passed unanimously.

II. OTHER

- A. The request of the **Weeks Realty Trust, and Carter Chad, Owners and Tuck Realty Corporation, Applicant** for property located at **3110 Lafayette Road** for a 1-year extension of Site Plan Review Approval for the demolition of an existing single family home and construction of 18 residential townhomes in 5 structures with a total building footprint of 15,880 s.f. and 47,252 s.f. of gross floor area with associated site improvements, grading, utilities, stormwater management and landscape improvements that was originally granted on February 20, 2020.

Vice Chairman Moreau moved to **grant** a 1-year extension to expire on February 20, 2022, seconded by City Council Representative Whelan. The motion passed unanimously.

- B. The request of **132 Middle Street, LLC** and **134 Middle Street, LLC, Owners**, for properties located at **132 and 134 Middle Street** for a 1-year extension of Conditional Use Permit Approval for a renovation of an existing building that will result in a net increase of 1 dwelling unit that proposes to provide 7 on-site parking spaces where 8 currently exist and a minimum of 24 are required under the current zoning ordinance that was originally approved on February 27, 2020.

Mr. Gamester recused himself from the application.

Vice Chairman Moreau moved to **grant** a 1-year extension to expire on February 2y, 2022, seconded by City Manager Conard. The motion passed unanimously.

- C. Discussion on proposed multi-use side path for bicycles and pedestrians along Elwyn Road.

Ms. Walker commented that there was a project to extend a multi-use path from Peverly Hill Rd. to Harding Way. It will almost go to the Rye line. The proposed path follows the Urban Forestry Center's frontage. The side path will be a minimum width of 10 feet. One property is privately held. They are agreeable to having the path cross their frontage. It will be a separate side path that won't impact the traffic on the road. They are also looking at ways to improve crossings. They have heard concerns from the neighborhood about putting crosswalks at certain locations. There will be a signal activated crosswalk at Harding Way. Eventually the goal would be to extend this to the Rye line. That would be a future project. The main challenge is that there are multiple property owners and very little right of way. This is a federally funded grant program and the NHDOT is the manager. The engineered plans won't be presented until feedback is obtained from the public and the land use boards. This is the opportunity for the Planning Board to provide feedback.

Vice Chairman Moreau questioned if this would be extended along Route 1. Ms. Walker responded that this project was under the NHDOT jurisdiction. It has been identified in bike/ped plan to complete a path on both sides of Route 1 wherever possible.

Mr. Chellman commented that when he was working on the Safe Routes to School Committee the idea of having connections from the Harding Way neighborhood to the school was a big deal. Mr. Chellman questioned if this would be extended into that neighborhood. Ms. Walker responded that there was another project in the CIP for Elwyn Park traffic calming as well as pedestrian and bike amenities in the Elwyn neighborhood. A feasibility study to add sidewalks and potentially bike accommodations in the neighborhood has been completed. The project is scheduled to be funded in a couple years. Sidewalks on Harding Way and down into the neighborhood will be part of that.

Chairman Legg commented that Route 1 had no sidewalks going into the Dondero School. That may be a way of getting kids out in a safe manner. A sidewalk would be good there.

City Council Representative Whelan commented that it would be nice to connect that whole Sagamore Highlands area behind Tuckers Cove. Ms. Walker responded that DPW has been working on an easement through there. Dave Desfosses is part of that project team and has also identified a potential opportunity. There is limited scope for this project grant but identifying opportunities for future connections is good.

III. ADJOURNMENT

Vice Chairman Moreau moved to adjourn the meeting at 7:53 p.m., seconded by Mr. Gamester. The motion passed unanimously

Respectfully submitted,

Becky Frey,
Acting Secretary for the Planning Board