

**PLANNING BOARD  
PORTSMOUTH, NEW HAMPSHIRE**

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

**7:00 PM Public Hearings begin**

**September 19, 2024**

**MEMBERS PRESENT:** Rick Chellman, Chairman; Karen Conard, City Manager; Joseph Almeida, Facilities Manager; Beth Moreau, City Councilor; Andrew Samonas; Anthony Coviello; and William Bowen, Alternate

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**ALSO PRESENT:** Peter Stith, Planning Department Manager

**MEMBERS ABSENT:** Greg Mahanna, Vice Chair; James Hewitt; Paul Giuliano

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Chair Chellman called the meeting to order at 7:00 p.m. Alternate William Bowen took a voting seat for the evening.

**I. APPROVAL OF MINUTES**

A. Approval of the **August 15, 2024** Meeting Minutes.

Chair Chellman requested a correction to the minutes. On page 10, first paragraph, last sentence, the word ‘without’ was changed to ‘within, so that the sentence now reads: He said the ADU should be done within the existing structure.

*Mr. Coviello moved that the Board approve the August 15 minutes as amended, seconded by Ms. Conard. The motion **passed** with all in favor.*

**II. DETERMINATIONS OF COMPLETENESS**

**SITE PLAN REVIEW**

A. The request of **Portsmouth Lumber & Hardware (Owner); Ricci Lumber (Applicant)**, for property located at **105 Bartlett Street** requesting Site Plan Review Approval for the demolition of existing sheds and construction of two new storage sheds with associated site improvements. Said property is located on Assessor Map 157 Lot 2 and lies within the Character District 4 (CD4-W).

*Councilor Moreau moved that the Board determine that Item A is complete according to the Site Plan Review Regulations (contingent on the granting of any required waivers under Section IV of the agenda) and to accept the application for consideration. Ms. Conard seconded. The motion **passed** with all in favor.*

### III. PUBLIC HEARINGS -- OLD BUSINESS

- A. REQUEST TO WITHDRAW** The request of **Samuel Holman and Kristina Schneider Holman (Owners)**, for property located at **271 Lafayette Road** requesting a Conditional Use Permit from Section 10.814 for the construction of a new Detached Accessory Dwelling Unit (DADU). Said property is located on Assessor Map 230 Lot 18 and lies within the Single Residence B (SRB) District. **REQUEST TO WITHDRAW (LU-24-138)**

*The Board acknowledged that the applicant withdrew the application.*

- B. REQUEST TO POSTPONE** The request of **Matt Ball and Andrea Fershtam (Owners)**, for property located at **252 Wibird Street** requesting a Conditional Use Permit from Section 10.814 for the conversion of an existing accessory structure into a Detached Accessory Dwelling Unit (DADU) that does not conform with the dimensional requirements of the Ordinance. Said property is located on Assessor Map 149 Lot 12 and lies within the General Residence A (GRA) District. (LU-24-137)

### DECISION OF THE BOARD

*Councilor Moreau moved that the Board grant the request to postpone to the January 2025 meeting. Mr. Coviello seconded. The motion **passed** with all in favor.*

### IV. PUBLIC HEARINGS – NEW BUSINESS

- A.** The request of **Peter and Amy Lalime (Owners)**, for property located at **1004 Greenland Road** requesting a Conditional Use Permit from Section 10.814 for the construction of a new Detached Accessory Dwelling Unit (DADU). Said property is located on Assessor Map 262 Lot 8 and lies within the Single Residence B (SRB) District. (LU-24-29)

### SPEAKING TO THE PETITION

[Timestamp 9:24] The applicants/owners Peter and Amy Lalime were present. Ms. Lalime said they were requesting a two-car garage with a living space above. She said they were on a dead-end road abutting I-95 with no traffic other than the few homes on the road.

[Timestamp 11:15] Councilor Moreau asked if there was currently a garage on the property. Ms. Lalime said the 1930s garage was more like a shed because a car could not fit into it. Councilor Moreau asked if the proposed garage would have a 750-sf unit above. Mr. Stith said it would actually be 724 square feet, so the applicant needed a modification from the footprint. Mr. Samonas asked if the back neighbor shared the. Ms. Lalime said the neighbor had a right-of-way.

Chair Chellman opened the public hearing.

### SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Chellman closed the public hearing.

## **DECISION OF THE BOARD**

1) *Councilor Moreau moved that the Board find that the Conditional Use Permit Application meets the requirements set forth in Section 10.814.62 of the Ordinance and adopt the findings of fact as presented. Ms. Conard seconded. The motion **passed** with all in favor.*

2) *Councilor Moreau moved that the Board grant the following **modification**:*

*2.1) Modification from Section 10.814.434 to allow a building footprint of 777 square feet where 750 is the maximum allowed.*

*Ms. Conard seconded.*

[Timestamp 13:52] Councilor Moreau said a lot of thought went into the ADU law change and the 750 square feet space was put into place to prevent someone from building a garage bigger than a house. She said the proposal was a modest increase to the 750 square feet. She said no neighbor or member of the public spoke at the meeting or wrote letters in opposition, and she had no concern about increasing it for that specific lot, especially because it abutted a highway. Mr. Almeida said the Board was approving a design similar to one they recently struggled with. Councilor Moreau said the other project had a much bigger footprint. Mr. Samonas said, given that the DADU sat back a ways from a dead end road and abutted a State of NH property, he saw no offense to it. He said it was important for the Board and the public to acknowledge and understand how context could influence these types of proposals. Mr. Bowen said the intent of the ordinance was to balance the interest to the property owner with that of the neighbors so that the neighborhood isn't compromised. He said the petition accomplished that and that the DADU would not intrude or change any neighborhood, whereas the similar petition did.

*The motion **passed** with all in favor.*

3) *Councilor Moreau moved that the Board grant the Conditional Use Permit with the following **conditions**:*

*3.1) Documentation of the conditional use permit approval shall be recorded at the Rockingham County Registry of Deeds, together with an affidavit that either the principal dwelling unit or the accessory dwelling unit will be occupied by the owner of the dwelling as the owner's principal place of residence, as required by Section 10.814.22.*

*3.2) A certificate of use issued by the Planning Department is required to verify compliance with the standards of this Section, including the owner occupancy and principal residency requirements. Said certificate shall be issued by the Planning Department upon issuance of a certificate of occupancy by the Inspection Department. A certificate of use shall not be issued prior to recording of documentation as required by this Ordinance.*

*3.3) The certificate of use shall be renewed annually upon submission of such documentation as the Planning Department may require to verify continued compliance with the standards of this Section. Failure to comply with this requirement shall be deemed a violation of the ordinance and may be enforced as provided in Article 2.*

*Ms. Conard seconded. The motion **passed** with all in favor.*

**B.** The request of **Portsmouth Lumber & Hardware (Owner); Ricci Lumber (Applicant)**, for property located at **105 Bartlett Street** requesting Site Plan Review Approval for the demolition of existing sheds and construction of two new storage sheds with associated site improvements. Said property is located on Assessor Map 157 Lot 2 and lies within the Character District 4(CD4-W). (LU-24-132)

### **SPEAKING TO THE PETITION**

[Timestamp 17:47] The applicant's representative Pat Moretti, president of Ricci Lumber, was present along with the current owner of the Ricci Lumber property, Ed Hayes, project engineer Patrick Crimmins, and Rick Kelly, President of Kodiak Building Partners and business owner. Mr. Moretti said vital improvements were needed for their facility and operation because several of the buildings had outlived their purposes and were in need of constant maintenance. He said they proposed to build modern and efficient buildings on the same site, with one building being an open 3-sided barn to accommodate weather-sensitive materials. He said they had several work sessions with the Technical Advisory Committee (TAC) and that the documentation in the packet addressed all the Board's requirements.

[Timestamp 19:55] Councilor Moreau confirmed that the applicant was taking something that already existed and making in better and capable of lasting. Mr. Bowen asked if the street's condition would stay that way until the new property on the shore was developed. Mr. Moretti said they had to remediate the stormwater on the property, so they would go across the street and follow the plans that were drawn up for that. He said the plan was to construct the buildings and direct all the water drainage from their property to the proper locations. He said the project behind them would be getting started at that time and the road would be part of that construction.

Chair Chellman opened the public hearing.

### **SPEAKING IN FAVOR OF THE PETITION**

Elizabeth Bratter of 159 McDonough Street said she had followed the project from the beginning and thought it would be an improvement and would look much nicer.

### **SPEAKING TO, FOR, OR AGAINST THE PETITION**

No one else spoke, and Chair Chellman closed the public hearing.

### **DECISION OF THE BOARD**

1) *Mr. Coviello moved that the Board find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as presented. Mr. Almeida seconded. The motion **passed** with all in favor.*

2) *Mr. Coviello moved that the Board grant Site Plan approval with the following **conditions**:*

*Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a building permit or the commencement of any site work or construction activity:*

- 2.1) The site plan and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
- 2.2) Lot merger application shall be submitted and approved prior to issuance of a building permit.*
- 2.3) The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the construction of improvements within the public rights-of-way and for all on site utilities and public pathways.*
- 2.4) Owner shall provide an access easement to the City for water valve and meter access and for leak detection. The easement shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by the City Council.*
- 2.5) Any site development (new or redevelopment) resulting in 15,000 square feet or greater ground disturbance will require the submittal of a Land Use Development Tracking Form through the Pollutant Tracking and Accounting Program (PTAP) online portal. For more information visit <https://www.cityofportsmouth.com/publicworks/stormwater/ptap>*

**Conditions to be satisfied subsequent to commencement of site work and construction activity but prior to release of surety bond or certificate of occupancy.**

- 2.6) The Engineer of Record shall submit an Engineer's stamped written report (with photographs, dated inspection reports for critical areas, material certifications, etc.) certifying that the stormwater infrastructure was constructed in accordance with the approved plans, the manufacturer's details and specifications, and requirements determined by State and local permits and that installed the system(s) will meet the design performance intent and requirements;*
- 2.7) A stormwater inspection report showing the required maintenance has been performed shall be completed annually with copies submitted for review to the City's Stormwater Division of the Public Works Department.*

*The motion **passed** with all in favor.*

- C. The request of **Deer Street Hospitality (Owner)**, for property located at **165 Deer Street** requesting a Conditional Use Permit in accordance with Section 10.1112.14 to allow 78 parking spaces where 83 are required. Said property is located on Assessor Map 125 Lot 17 and lies within the Character District 5 (CD5), and Downtown Overlay Districts. (LU-19-242)

## **SPEAKING TO THE PETITION**

[Timestamp 24:30] Doug Reynolds representing the applicant Deer Street Hospitality was present and said they proposed a reduction of five parking spaces on the lot, which would reduce the current 83 spaces to 78. He said a parking analysis was provided to City Staff and that he also met with TAC. He explained that they had five car lift spaces in the garage, and the generator for it was a longer lead time than anticipated. He said the parking analysis indicated that a maximum of 73 spaces was needed.

[Timestamp 25:39] Mr. Samonas asked if the lifts in the garage could be placed in another spot. Mr. Reynolds said the generator could not be placed in the garage. Councilor Moreau asked why it had not been planned out ahead of time. Mr. Reynolds said the fire suppression system required a larger transformer based on the fire marshal's requirements and due to that larger transformer, they did not have the space for the power to generate the lift. Councilor Moreau said that should have been discovered when the whole thing was put together. Mr. Reynolds said the planning process was six years ago and the building itself had gone through several different designs. He said when the most recent architect went to the fire marshal, the requirement for a larger pump was required. Chair Chellman asked if the fire code or some fire issue had changed in the last six years. Mr. Reynolds said he was not aware of it. Mr. Samonas said the proposal highlighted that a valet service would do the parking, so he assumed that there would be no guests parking their own car. Mr. Reynolds agreed. Chair Chellman asked if the valets would park cars elsewhere than the garage. Mr. Reynolds said there were 50 spaces within the building and the valet service would also use 33 spaces in the Foundry Garage, and no cars would be parked on the street. Mr. Bowen said if the applicant had known in the beginning that they would have a mechanical difficulty, they would have had an opportunity to take a different approach to the construction of the building and could have had fewer rooms and fewer cars, but because the applicant didn't do that, they went ahead with a design that did not work and now needed parking relief different from what the code called for. Mr. Reynolds agreed but said the powering item that they needed had been on order for 18 months or longer, and if they were get another one, it would be another 18 months. Chair Chellman asked how many parking spaces there were and what the analysis showed for the actual parking needed. Mr. Reynolds said it was approved for 83 spaces and they were proposing 78 spaces. He said the analysis they provided showed an anticipated peak demand of 64 spaces on a weekday and 60 spaces on a Saturday, based on the ITE standard. Mr. Coviello asked the applicant if he compared the percentiles from ITE to existing hotels in Portsmouth and what they were seeing for demand. Mr. Reynolds said they didn't but, based on discussions with other people, they were seeing that the spaces were not being filled. Mr. Coviello said it sounded like the problem was time and not having space for it. He asked if there was a way the applicant could open up the facility and have the lift system in two years. Mr. Reynolds said TAC said that the parking analysis determined that they didn't

really need the five spaces. Mr. Samonas asked if the 33 parking spaces in the Foundry Garage were in perpetuity. Ms. Conard said they were part of the original agreement. Mr. Almeida said he didn't have a lot of concern about the loss of a few spaces and said it was minimal compared to the congestion issues that could occur if there were deliveries. Mr. Coviello asked if all the parking amounts were based on a vehicle parked in a striped space. Mr. Reynolds said they were and that double stack parking was discussed with City Staff. Mr. Stith said the applicant proposed having the five spaces in front of the others but they could not be counted as legal conforming parking spaces. Councilor Moreau asked if the hotel always managed where a guest's car was parked. Mr. Reynolds agreed. Councilor Moreau said she had less concern if the hotel managed it. It was further discussed. Chair Chellman said the applicant chose business hotel as their land use, and he asked if the applicant considered what it might be if it was a regular hotel. Mr. Reynolds said it was a general urban setting for a hotel and that they used the business hotel because they felt that was the most appropriate.

Chair Chellman opened the public hearing.

### **First Round Speakers:**

#### **SPEAKING IN FAVOR OF THE PETITION**

No one spoke.

#### **SPEAKING AGAINST THE PETITION**

[Timestamp 39:34] Elizabeth Bratter of 159 McDonough Street said if five spaces were removed, ten spaces would be removed because the applicant had already received a reduction in their parking through the Downtown Overlay District bonus. She said the applicant built the hotel knowing that they did not have enough room, and she thought they needed to build less rooms or correct the problem that they created.

Mr. Reynolds said those spaces were currently five of the spaces that are still to remain. He said the lift would be above those spaces, so it was only a five space reduction, not 10 spaces.

### **Second Round Speakers**

Elizabeth Bratter said the applicant stated that five spaces had to be removed to put in the fire system and those five spaces were all lift spaces, so there were still ten spaces.

No one else spoke, and Chair Chellman closed the public hearing.

#### **DECISION OF THE BOARD**

[Timestamp 44:42] Councilor Moreau said she had fought with the request mostly because it was a big building and the applicant could redesign it and have enough parking. She said if the Board turned it down, the applicant would have to find another way to accommodate, so she didn't feel

that there was a good reason for it. She said the thing that got her over the hump was that the applicant was taking away the lift because they don't have the power to lift, so they still had five of those spots but they just didn't have all ten. She said the actual lift function was going away, not the actual parking spots, and it was because the applicant couldn't get a big enough generator to handle the fire suppression equipment and five lifts. She said if the hotel staff managed all clientele parking and ran out of spots, they would pay the garage for more spaces or find a way to stack the cars in the hotel, so she had less concern over a five car space reduction.

- 1) *Ms. Conard moved that the Board find that the Conditional Use Permit application meets the criteria set forth in Section 10.1112.14 and to adopt the findings of fact as presented. Mr. Almeida seconded.*

[Timestamp 46:44] Chair Chellman said one of the findings was that it was five spaces and not ten spaces. Mr. Almeida said the parking would be managed by the hotel, but he asked how the board would ensure it would be forever. Chair Chellman said a condition of approval was that it would be valet parking. Councilor Moreau asked how someone would be prevented from parking elsewhere and then checking into the hotel with a car. It was further discussed. Mr. Bowen said it was a long lasting decision. He said the traffic analysis suggests that business people will be coming into Pease and taking an Uber to the hotel and staying there for a week, which he did not agree with. He said the traffic analysis was aggressive in thinking how people would get to the hotel and how long they would stay there. He said he was also concerned about the broader neighborhood and the capacity utilization at the Foundry Garage. He said the overall parking capacity in the north end would be a problem at some point, and to allow an applicant to put in less parking than the use was asking for would be an imposition in the neighborhood. Mr. Samonas said it was reflective of their ordinance and maybe a discrepancy in that it had already been approved. He said the applicant did a further reduction in room count and was utilizing ratios and percentages for parking that were written in already. He said five spaces could potentially exacerbate parking in the neighborhood but it was the applicant's issue to solve within their property. He said the problem could have been solved a long time ago if the Board had been more diligent about the parking ratios in general. Chair Chellman said the Board had a parking analysis in front of them that was accepted by TAC, and if they did not agree with it, they should be specific about why. He said the applicant showed a rationale of why there was support to reduce the demand, but the Board didn't have to agree to it. It was further discussed. Councilor Moreau said she felt that more people came to Portsmouth for recreation than business and she would like to know if there was a difference in the business model. Mr. Samonas said it was easy to argue for the opposite side of that thesis because they were both hypotheses of what could happen. He said the Board had to use the standard under the category that the applicant chose and thought the Board could get over the five spaces.

*The motion **passed** by a vote of 6-1, with Mr. Bowen voting against.*

- 2) *Ms. Conard moved that the Board vote to grant the Conditional Use Permit with the following **condition**:*
  - 2.1) *Hotel parking will be by valet only, with no on-street parking allowed.*



*Mr. Coviello seconded. The motion **passed** by a vote of 6-1, with Mr. Bowen voting against.*

**Note:** Ms. Conard originally made a second condition to require the hotel to install the lifts after five years. After further discussion, she withdrew the second condition. [Timestamp 1:01:43]

## **V. CITY COUNCIL REFERRALS**

### **A. Letter from James R. Knudsen, Estate of Star C. Johnson – Donation of Map 232 Lot 25 on Marjorie Street to the City**

[Timestamp 1:06:02]

*1) Mr. Coviello moved that the Board vote to recommend that the City Council accept the donation of land from the Estate of Star C. Johnson.*

*Councilor Moreau seconded. The motion **passed** with all in favor.*

### **B. Request to Release a Portion of Longmeadow Lane**

[Timestamp 1:07:19] Chair Chellman said there was a request to postpone it. Deputy City Attorney McCourt was present and said the City Council did not have in their motion a report back by a date certain, so if the Board felt that there was more information to be gleaned from the situation, they could postpone it. He said it was just a recommendation from the Board to the City Council, who made the final decision. Councilor Moreau said utilities were involved so she would vote against releasing it. Chair Chellman agreed.

*1) Councilor Moreau moved that the Board recommend that the City Council not release the City's interest in Longmeadow Lane. Mr. Coviello seconded. The motion **passed** by a vote of 6-0, with Mr. Samonas abstaining.*

**Note:** Section VI.A, Extensions, were addressed out of order at this time.

### **C. Gateway Neighborhood Overlay District (GNOD)**

[Timestamp 1:12:04] Chair Chellman said the Board had to formalize a recommendation to the City Council to go for a first reading. Councilor Moreau said a public hearing had to be scheduled also. It was further discussed.

*1) Ms. Conard moved that the Board schedule a public hearing at the October 17, 2024 Planning Board meeting. Mr. Samonas seconded. The motion **passed** with all in favor.*

## **VI. OTHER BUSINESS [Timestamp 1:10:10]**

### **A. 105 Bartlett Street requesting a 1-Year extension to the Site Plan Review, Shared Parking and Wetland Conditional Use approvals that are set to expire on October 12, 2024.**

*Mr. Coviello moved that the Board grant a one-year extension of the Planning Board Approval of the Site Plan and Conditional Use Permit to October 12, 2025. Mr. Almeida seconded. The motion passed 5-0, with Councilor Moreau and Ms. Conard abstaining.*

**B. 928 & 936 South Street requesting a 1-Year extension to the Lot Line approval issued on September 21, 2023, extended on March 15, 2024, and due to expire on September 21, 2024.**

*Councilor Moreau moved that the Board grant a second six-month extension for the Subdivision to March 21, 2025. Mr. Almeida seconded. The motion **passed** with all in favor.*

**Note:** The Board then went back to Section V, Item C.

**C. Chairman Updates and Discussion Items**

[Timestamp 1:25:23] Chair Chellman said he was asked to sign a letter prepared by the Housing Coordinator in support of a grant request for State funding to provide some assistance with zoning amendments, and if the Board was in support of it, he would recommend it.

*Councilor Moreau moved to provide a letter of support for the Invest NH HOP Grant 2.0 from the Planning Board. Ms. Conard seconded. The motion **passed** with all in favor.*

**D. Board Discussion of Regulatory Amendments, Master Plan Scope, and Other Matters**

Chair Chellman said the Legal Department was working on the Master Plan RFQ and that he hoped it would be ready to go out later in the month. He said there was also a Planning Board work session scheduled for the following week to discuss zoning amendments.

**VII. ADJOURNMENT**

The meeting adjourned at 8:30 p.m.

Respectfully submitted,

Joann Breault  
Planning Board Recording Secretary