

**TOWN OF HENNIKER
PLANNING BOARD**

Approved Minutes
November 12, 2008

Members Present: Kristin Claire, Chairwoman; Gary Guzouskas, Vice-Chairman; Ron Taylor, Selectman, ex-officio; Jim McElroy; Terry Stamps; Kellie Dyjak; Scott Osgood Leon Parker, Alternate Selectman, ex-officio; Ed Miner, Alternate

Others Present: Laura Scott, Planning Consultant; Peter Flynn, Town Administrator; Joseph Peter Dooley; Christopher Dube; Tara McCarthy; Roy Grieder; Curt Richmond; Lauren Joyner; Skip Sagris; Art Siciliano; Jennifer Astholz, Recording Secretary

Continued Public Hearings

Case #2008-001. Excavation Application.

Map 1 Lot 552-A located at 1236 Old Concord Road in the Heavy Commercial (CH) Zoning District. The applicants, Daren and Kellie Dyjak, are proposing to excavate the property to allow for the future development of the site.

It is noted that the applicants have formally withdrawn this application.

Case 2008-009 Site Plan Review Application

Map 1 Lot 604 located at 1310 Old Concord Road in the Heavy Commercial (CH) Zoning District. The applicant, Curtis Richmond, on behalf of Randy Cousineau of Cousineau Forest Products, is proposing to convert the first floor of an existing 100' x 30' storage building to a garage, four offices and a lobby. The second floor of the structure (50' x 30') will remain open for storage.

Laura Scott, Planning Consultant, reviewed the materials in the Board's packet. She stated that the application is for a change of use from storage to office, garage and storage spaces. Curt Richmond, applicant, presented the application which proposes to expand usable space for more employees. He stated that he was only looking to add space for employees but has no issues with meeting the requirement of a restroom facility from the Interim Building Inspector.

Chairwoman Claire asked the Board to consider the application for completeness. Ms. Scott stated that parking and access plans were addressed in the October 17, 2008 memo. She stated that the only outstanding requirement noted by the Interim Building Inspector is the addition of a restroom.

Mr. Richmond explained that windows will be in every office on the ground floor to accommodate adequate ways of egress. He stated that there is also a door at the garage side, and another door can be added, if it is deemed necessary at the building inspection phase.

Ed Miner asked if the second floor is fire rated. Mr. Richmond stated that the ceiling will be double sheet-rocked.

Ron Taylor asked if Centervale Road will be kept open; Mr. Richmond stated that there will be no change to any other areas of the site except for this building.

Jim McElroy **MOVED** to accept the application as complete. Kellie Dyjak **SECONDED** the motion. Chairwoman Claire asked for discussion by the Board. Scott Osgood stated that the plans were very sparse, and he did not feel that there was enough information to vote in favor of the application. He stated that for example, no parking and no access to the building were shown on the plans. He stated that a lot of the things that would be required by a building code for human occupancy would be needed. Mr. Richmond stated that parking has been addressed, and the current yard is able to be used for ample parking.

Closing the Board discussion, Ms. Claire called for the vote regarding completeness of the application. The motion to accept the application as complete **PASSED, 6-1**. Ms. Claire, Mr. Guzouskas, Mr. Taylor, Mr. McElroy, Ms. Stamps and Ms. Dyjak voted in favor; Mr. Osgood voted against.

The board members asked various questions about the building. Mr. Richmond stated that there will be no additional lighting or signage to what is currently in place. He stated that they are maintaining the footprint of the building.

Chairwoman Claire opened the public hearing at 7:14 pm. Hearing no comments from the public, the public hearing was closed.

Ms. Claire called for Board deliberation. Mr. Osgood stated that specific technical details regarding parking, lighting, drainage, topos, etc. are clearly asked for in site plan applications. Mr. Taylor stated that this is a simple renovation of an existing building. Mr. Osgood stated that he is concerned about site plan review, and the necessary information is not on the plans. He stated the information is requested to reasonably ensure that a building will be constructed properly.

Mr. Taylor asked where the septic for the additional restroom would be located. Mr. Richmond stated that it will hook into the corner of the existing office. He assured the Board members that all work would be done properly and professionally.

Mr. McElroy asked if the concerns raised could be addressed by a condition of approval of an approved septic design. Ms. Scott stated that the State approves the septic design, which is part fo the building permit process, and that approval will go into the file at Town Hall.

Mr. McElroy **MOVED** to approve the application subject to the condition that a sketch of the proposed septic system associated with the newly proposed restroom is approved by

the State. It was noted that the condition of approval is not necessary as the State monitors the septic design and has to grant approval. As there was no second to the motion yet, Mr. McElroy **WITHDREW** that motion.

Mr. McElroy **MOVED** to approve the application as presented. Mr. Taylor **SECONDED** the motion. Motion **PASSED, 7-0.**

Request to Accept extension of Plummer Hill Road

Peter Flynn, Town Administrator, acting on behalf of the Board of Selectmen and Roy Grieder, requested that the Planning Board accept the extension of Plummer Hill Road as a Town road. Mr. Flynn stated that the applicant, Mr. Grieder, has met all conditions concerning the road. He stated that the biggest issue concerned the turn-around “T” end of the road. In a letter dated 11/3/08, Mr. Flynn stated that the Town has received the acceptance recommendations from the Highway Superintendent and the Fire Chief. Mr. Flynn publicly complimented Mr. Grieder on challenging HTA’s fee schedule where he was awarded a refund of \$1,700.

Gary Guzouskas **MOVED** that the Planning Board recommend that the Plummer Hill Road extension be accepted as a Town road as all conditions have been met. Jim McElroy **SECONDED** the motion. Motion **PASSED, 7-0.**

New Public Hearings

Case 2008-012 Lot Line Adjustment Application

Map 1 Lot 279-A and Map 1 Lot 279-J located on Foster Hill Road in the Residential Neighborhood (RN) Zoning District. The applicant, Joseph Dooley, is proposing a lot line adjustment that will adjust Lot 279-A from 1.34 acres and 252.85’ of frontage to 1.51 acres and 247.84’ of frontage and will adjust Lot 279-J from 5.80 acres and 151.94’ of frontage to 5.63 acres and 156.95’ of frontage.

Ms. Scott stated that zoning designation is actually in the rural neighborhood (RN) district. Ms. Scott reviewed the information and stated that the applicant has requested several waivers. She stated that these lots are grandfathered non-conforming lots in the RN district. She stated that the application makes the lots less non-conforming. She stated that this type of application would typically be sent to the Zoning Board of Adjustment first if there is a question about Zoning. Art Siciliano, representing the applicant, stated that the ZBA is not necessary in this case for a lot line adjustment. Chairwoman Claire stated that the ZBA’s involvement would be appropriate, as the Planning Board does not have the authority to create non-conforming lots.

The Board members discussed other past cases where this type of scenario may have been an issue. However, it was determined that the other cases dealt with issues other than what is being proposed in this application. Leon Parker stated that it is his opinion that new lots are not being created as the lot line is just being moved on two existing lots.

Ms. Scott stated that this application makes one lot less non-conforming by acreage, and one lot less non-conforming by frontage. She asked if the Planning Board should hear this case or whether it needs to be referred to the ZBA.

Mr. Siciliano showed the proposed changes on the plans. He stated that there is no way to make the lots conform to zoning.

Mr. Guzouskas reviewed applicable laws and court decisions. He stated that he understood the Board's confusion about the proposed lot line adjustment. The proposal is not to create new lots or change the lots, it is just a lot line adjustment which does not change the lots from being non-conforming, which is not allowed by the Planning Board. Ms. Claire stated that the Planning Board is not allowed to create new non-conforming lots.

Ms. Scott stated that she is unclear what to recommend for this type of case. She stated that there is no specific statement about making a lot *less* non-conforming in the Zoning Ordinance. Ms. Scott stated that the Board can develop language to be added to the Zoning Ordinance for clarifying this type of issue in the future.

Mr. Siciliano stated that they are not looking for approval of new lots but are requesting only a lot line adjustment.

Mr. Parker stated that it is his opinion that the zoning ordinance was written in context of creating a subdivided lot. Ms. Claire stated that she believes that this could be construed as approving a non-conforming lot, which only the ZBA can do.

Mr. McElroy **MOVED** to table the application until 12/10/08 so that the ZBA can review the application. Ms. Dyjak **SECONDED** the motion. Motion **PASSED, 5-2**. Ms. Claire, Mr. McElroy, Ms. Stamps, Mr. Taylor, Ms. Dyjak voted in favor; Mr. Osgood and Mr. Guzouskas voted against the motion.

Discussion of Approved Site Plan

Case #2008-004. Map 1 Lot 619-A located at 1805 Old Concord Road in the Heavy Commercial (CH) Zoning District. Discussion of proposed architectural design changes.

Skip Sagris stated that the Planning Board had approved brown awnings with no printing for the new Dunkin' Donuts building. The applicant could not meet the requirements for the brown awnings with no lettering and has asked the Board to approve that the color be changed to burgundy. He showed a color swatch to the Board.

Mr. McElroy **MOVED** to authorize changing the color of the awnings from brown to burgundy with no lettering. Ms. Stamps **SECONDED** the motion. Motion **PASSED, 6-0-1, with Scott Osgood abstaining**.

Mr. Sagris told the board members that he would like to install a 250-watt high-pressure sodium streetlamp across from the main driveway on Old Concord Road, instead of the

new light he had recently installed, for more appropriate lighting. He stated that the change will get done much more quickly if the Board requests it due to the existing light being a safety issue at the intersection. Ms. Scott stated that she can write a memo to PSNH stating that the Planning Board believes the existing light is a safety hazard and requests that the other type of light be installed.

Mr. McElroy **MOVED** that the Planning Board authorize the Planning Consultant to write a memo to PSNH requesting that a 250-watt high-pressure sodium streetlamp replace the existing light, which creates a safety hazard. Mr. Taylor **SECONDED** the motion. Motion **PASSED, 7-0.**

Mr. Sagris stated that an error was made during construction. He showed the area where the retaining wall was moved back from the brook. The site was then re-staked during construction, and the pavement now sits within the 5' property setback. Ms. Scott stated that she cannot sign off on the Certificate of Occupancy if construction violates zoning. She stated Mr. Sagris can go to the ZBA for an "equitable waiver of dimensional requirements". Other options, such as ripping out the pavement and granting conditional approval of the Certificate of Occupancy, were discussed.

The process of signing off on the Certificate of Occupancy was discussed. Other Town agencies sign off their recommendation relative to their area of expertise (i.e., fire, highway, etc.) The role of the building inspector in signing the Certificate of Occupancy was discussed. Ms. Scott stated that she is the only one who checks that the conditions of approval set by the Planning Board are met. Mr. Osgood stated that the Town process seems cumbersome and should be reviewed.

Ms. Claire stated that she likes having the Planning Consultant review it to make sure that the applicant has complied with the conditions of approval. She stated that the multi-faceted approach allows for a series of approvals before the final signature is made.

Ms. Claire noted that a smaller sign is being installed at the Dunkin' Donuts than what was actually approved, which is good.

Ms. Scott informed Mr. Sagris that he would have to go before the ZBA to request the Equitable Waiver of Dimensional Requirements as stated above because of the Zoning violation.

Meeting Minutes – Review and Approve

❖ October 8, 2008 Meeting

Minutes of the October 8, 2008 meeting were reviewed and corrected. There had been discussion about fire department staff authority to review plans, and the minutes were corrected to reflect that conversation.

Ms. Stamps **MOVED** to approve the minutes as amended. Mr. Guzouskas **SECONDED** the motion. Motion **PASSED, 7-0.**

❖ October 22, 2008 Meeting

Minutes of the October 22, 2008 meeting were reviewed and corrected. Ms. Stamps **MOVED** to approve the minutes as amended. Mr. McElroy **SECONDED** the motion. Motion **PASSED, 6-0**. Mr. Miner Ms. Dyjak who were not present at the 10/22/08 meeting.

2009 Town Meeting

Review Proposed Language and Legal Counsel Comments

- ❖ Small Wind Energy Systems: Ms. Scott gave information to Peter Flynn per the board's discussion about a possible Town-adopted ordinance based on the NH OEP model ordinance. Ms. Stamps will represent these proposed changes at the Planning Board public hearing. Mr. McElroy **MOVED** to forward this article to Town Meeting unchanged. Mr. Guzouskas **SECONDED** the motion. Motion **PASSED UNANIMOUSLY**.
- ❖ Signs (article XI): Ms. Claire will represent this at the Planning Board public hearing. The board discussed that this ordinance does not permit off-site signs other than directional signs permitted by the Board of Selectmen. Businesses are allowed to have one attached sign, one freestanding sign and a multi-directional business listing sign. A business can also display a flag and a portable temporary sign. Mr. Parker stated that the ordinance does not allow a business to lease space for the purpose of erecting a sign. Mr. Miner stated that there has been a lot of discussion about keeping the rural character of the Henniker. Mr. McElroy **MOVED** to forward the article to Town Meeting unchanged. Mr. Taylor **SECONDED** the motion. Motion **PASSED UNANIMOUSLY**.
- ❖ Junkyards: Mr. Guzouskas will represent this at the Planning Board public hearing. Legal Counsel suggested making the definition stronger by not using the state RSA. The State definition gives dimensional requirements. The Board discussed merits of both suggested definitions. It was the consensus of the Board to refer to the State RSA as proposed. Mr. Guzouskas **MOVED** to forward this to Town Meeting unchanged. Mr. McElroy **SECONDED** the motion. Motion **PASSED UNANIMOUSLY**.
- ❖ Administration (Article XIII): Mr. Osgood will represent this at the Planning Board public hearing. Legal counsel made no changes or recommendations. Ms. Dyjak **MOVED** to forward this article to Town Meeting unchanged. Mr. McElroy **SECONDED** the motion. Motion **PASSED UNANIMOUSLY**.
- ❖ Institutional: Mr. McElroy will represent this at the Planning Board public hearing. It is noted that the term is being removed in order to clean up the regulations. Mr. Guzouskas **MOVED** to forward this to Town Meeting unchanged. Mr. Taylor **SECONDED** the motion. Motion **PASSED UNANIMOUSLY**.

- ❖ Board of Adjustment: Mr. Parker will represent this at the Planning Board public hearing. This proposed Ordinance is a description of what the ZBA applications reflect and what state law and court decision require the ZBA to do. Mr. McElroy **MOVED** to forward this to Town Meeting unchanged. Mr. Claire **SECONDED** the motion. Motion **PASSED UNANIMOUSLY**.
- ❖ Manufactured Housing: Mr. Taylor will represent this at the Planning Board public hearing. The Board discussed comments made by Legal Counsel. Language referencing the applicable RSA's will be used for the definition, and Ms. Scott will make the necessary changes. Mr. McElroy **MOVED** to forward the article with the revised definition and RSA references to Town Meeting. Ms. Dyjak **SECONDED** the motion. Motion **PASSED UNANIMOUSLY**.
- ❖ Excavation: Ms. Dyjak will represent this at the Planning Board public hearing. Legal Counsel made comment that this is not really necessary as the information is elsewhere. The Board hopes that it will be helpful to let people know where the regulations are located and makes the RSA's available to the public. No further restrictions are imposed and there is no further burden to the public. Mr. Taylor **MOVED** to forward this to Town Meeting unchanged. Mr. Guzouskas **SECONDED** the motion. Motion **PASSED UNANIMOUSLY**.
- ❖ Educational District: Mr. Miner will represent this at the Planning Board public hearing. Legal Counsel recommended no changes. Mr. McElroy **MOVED** to forward this to Town Meeting unchanged. Mr. Guzouskas **SECONDED** the motion. Motion **PASSED UNANIMOUSLY**.

Miscellaneous

- ❖ Draft 2009 Planning Board Schedule was reviewed.
- UNH Cooperative Extension Community Profile Project: April 3-4, 2009 are the draft dates for the event. Ms. Scott asked if the Board would be willing to pay for one ad in the Villager newspaper for the event. It was the consensus of the Board to approve one ad.
- ❖ The Board discussed new maps that were printed for the Town. This is the first step in a long process.

Adjournment

Mr. Osgood **MOVED** to adjourn at 9:45 pm. Mr. Guzouskas **SECONDED** the motion; motion **PASSED UNANIMOUSLY**.

Respectfully submitted,

Jennifer Astholz