

# HENNIKER PLANNING BOARD

## APPROVED MINUTES

July 9, 2008

**Members Present:** Gary Guzouskas, Vice-Chairperson; Kellie Dyjak; Ron Taylor, Selectman, ex-officio; Jim McElroy; Scott Osgood; Edward Miner, Alternate Kristin Claire, Chairperson; Leon Parker, Selectmen ex-officio Alternate

**Members Absent:** Terry Stamps

**Others Present:** Laura Scott, Town Planning Consultant; Jennifer Astholz, Recording Secretary; Skip Sagris; Laura Sagris; Gregory Sagris; Joe Wichert; Karen O'Rourke, Brown Engineering; Jeff Roach; Bob Garrison

Vice-Chairperson Guzouskas called the meeting to order at 7:01 pm.

### **Continued Public Hearings**

#### Case #2008-004, Site Plan Application.

Map 1 Lot 619-A located at 1805 Old Concord Road in the Heavy Commercial (CH) Zoning District. The applicant, Skip Fern Management, on behalf of Gail T. Hayden, is proposing to renovate and improve an existing retail site for a Dunkin Donuts franchise. Proposed site improvements include renovating the existing 1,200 sqft building, adding a 672 sqft building addition, modifying the existing parking lot and access, adding an additional parking area to the west of the building, adding a drive-thru facility, improving the landscaping, changing the signage, and off-site road improvements onto US 202/NH9. This application is being noticed as a Development of Regional Impact, per NH RSA 36:54-36:57.

Chairperson Kristin Claire arrived at 7:03 pm. Jim McElroy, Board member, left the panel as he has disqualified himself from this case. Ed Miner, Alternate, will be voting in his absence. Vice-Chair Guzouskas turned the meeting over to Chairperson Claire.

Laura Scott, Planning Consultant, reviewed her memo to the Planning Board dated June 30, 2008. She stated that written confirmation that the total proposed signage for the site does not violate Article XI of the Zoning Ordinance. Ms. Scott distributed a one-page summary of outstanding items, prepared by the applicant, to the Board.

Mr. Skip Sagris, applicant, pointed out changes that have been made since the Board last reviewed the plans. He showed where the dumpster pad has been moved to another area. He stated that the dumpster will be surrounded by a 6' high chain-link fence with slats and will be almost completely hidden by landscaping. He stated that the parking lot has been enlarged for easier maneuverability.

Mr. Sagris stated that the H2O septic system has been enlarged and will be under the parking lot; he also stated that cars and trucks can drive over it.

He stated that changes have been made to the inside of the building, and seating for patrons has been reduced from 29 seats to 24 seats.

He stated that the propane tank was originally shown approximately 5' from the building. Design changes now call for a buried tank to be about 11' away from the building while making it easier to reach for filling.

He stated that an HVAC pad was added and a split system will be used. The condenser will sit outside on a concrete pad on the left side of the building.

Mr. Sagris stated that the location of the well has also been changed and the protective radius has increased.

He explained that the plans for the retaining walls have been changed. The plans originally called for them to be 5' closer to the wetlands. Michie Corporation has designed the walls with a "forced protection system," allowing the wall to be moved another 5' away from wetlands at the narrowest point.

He stated that three additional parking spaces have been added to the west parking lot for employees, bringing the total to nine spaces. One parking space has been reconfigured so that it will no longer encroach on State property in the main parking lot.

Ron Taylor, Selectman, ex-officio, asked if the buried propane tank is safe for snow plowing. Mr. Sagris stated that it is a good design with only a 10" cap sticking up above ground. This will be protected from the plows with bollards, which will be shown on the plan.

Mr. Sagris then showed the snow storage plan for the parking and drive-thru areas. He stated that, as in any business, some years have a lot of snow and may require hauling snow away from the area. Mr. Taylor stated that it appears that snow will be pushed from the front to the back of the lot, and there may not be enough room to store it. Mr. Sagris stated that plows can easily push snow over the 6" Cape Cod berm. He stated that this has been done in 12-14 other sites, and no permits are necessary to pile snow onto NHDOT land.

Concerning off-site improvements, Mr. Sagris stated that he has received verbal approval from NHDOT in Concord for the proposed road improvements. He stated that he is only missing two items to receive the necessary permit. He stated that NHDOT District V has the revised plans; however, the key person to review the work is on vacation this week and cannot complete the permitting process. He stated that he expects to have the necessary letter of credit from the bank on Monday for NHDOT. He stated that DOT is actually only widening the road 1-1/2' to 2' and it is his understanding that Hopkinton is not having a scoping hearing. Mr. Sagris stated that DOT has called him about the plans, Concord has given verbal approval, plans have been communicated to Pike; however,

they must wait for written approval which will come after receiving the letter of credit early next week.

Chairperson Claire stated that she is concerned about working with only a verbal approval and would be more comfortable with seeing written confirmation from DOT. Mr. Sagris stated that approval is trying to be rushed so that the needed road improvements will be done at the same time that DOT is already doing other scheduled work. Mr. Sagris stated that a representative from District V said that they were putting deceleration lanes at four improved intersections in the area. Although, he stated, that it appears that much of what was presented to the town by NHDOT is not what is actually happening during the road improvement process.

There was discussion about marking the lanes at the intersection of Rte. 202/9 and Rte. 127. Mr. Guzouskas stated that it is his understanding that there will be a right-turn only lane, and a lane for going straight through the intersection or for turning left. Chairperson Claire stated that the lanes must be clearly marked with turning arrows.

Ms. Scott stated that the Town of Hopkinton has signed off on the off-site improvement plan. Mr. Sagris stated that he is hopeful to have written DOT approval by Tuesday, July 15, 2008.

Concerning the request for submission of the Redi Rock details prior to construction, Mr. Sagris stated that the sugar shack and utility shed are currently in the way. He plans to remove those and level the area to create the most accurate plans.

Mr. Sagris stated that details of the base of the lamps and the underground conduit will be shown on the plans. It was stated that 10' poles are currently planned; however, they have the availability of 16' poles, if needed. There is also the option of attaching the pole right to the wall, if needed.

The plans show the new septic system, which will be under the parking lot. The environmental septic system shown requires 18" of cover and can be plowed over.

Mr. Sagris explained that the 1,000 gallon propane tank has been relocated. Ms. Scott stated that the fire department gave her verbal approval on this plan when she spoke with them this afternoon.

The west parking lot has been designed with the largest turning radius possible to provide ample maneuvering room for vehicles. A 10-wheel truck can easily maneuver, and an 18-wheeler can back into the lot.

The driveway profile tie-in at Old Concord Road and other noted scales of plans and profiles have been revised.

Several changes were made to the drainage and hydraulic modeling as requested in the Town Engineer's report. Mr. Sagris stated that the paved area has been redirected into

the closed catch basin and another catch basin has been added. This change is on the new plans ready for submission. Mr. Guzouskas stated that this change addresses the road agent's concern as it causes runoff to go through the swale and out again. Mr. Sagris stated that two-year storm information will be added. Reaches for swales in both watershed areas have been added to the plans as requested. The drainage report was revised as requested in item #10 of the Town Engineer's report.

The police chief's comments were addressed. It was stated that marking the traffic lanes will be helpful at the intersection. The police chief stated that additional "no parking" signs along Old Concord Road are not necessary. Mr. Sagris stated that he will abide by whatever the Board deems necessary.

The applicant then addressed comments made by the Conservation Commission. Mr. Sagris stated that there will be no disturbance of the wetlands; the retaining wall will be 5' from the wetlands and 10' from the creek. The type of wall that is being used here only requires a space of 12" out from the wall for its foundation. The foundation of the wall will be 2' away from the silt fence. No wetlands will be cleared, and an excavator will be used in the area to install the foundation.

Chairperson Claire asked if a site walk of the area was needed, but most of the other Board members stated that they were familiar with the area.

Mr. Osgood stated that they must dig a test pit to determine the foundation requirement for the retaining wall. Mr. Sagris stated that some areas have been dug already and it is just sandy soil composition. He stated that they will put gravel and stone in and will probably create better drainage in the process. Karen O'Rourke, Brown Engineering, stated that this would have been noted as wetlands, too, if deemed necessary; but there is a lot of sand there.

The applicant stated that the building referred to in item #3 of the Conservation Commissions memo is the shed. He stated that the shed is built partially on a deck, and it is the deck that is in the wetlands vegetation. They propose to lift the shed onto a flatbed truck and remove it from the site. The plan is to remove the decking; however, the three posts that are in the wetlands could be left there if the Board would like.

Existing tree removals are already shown on the plans. It is noted that the State plans to remove two of them.

Mr. Sagris explained that they plan a landscape screen of hemlocks and poplars as hemlocks are slow-growing trees. The faster growing poplars can be replaced in several years with more hemlocks if that is desired. Chairperson Claire stated that she does not like poplars, but the other Board members stated that they like the mixed planting.

The recommendation to use pervious pavement was discussed extensively. Mr. Osgood stated that pervious pavement costs more initially and maintenance costs can be high. He stated that it may be helpful to use this technology as the parking areas bisect drainage

swales and wetlands. He offered to give the applicant a contact from the UNH storm water group that is knowledgeable about this technology. Ms. O'Rourke, PE, stated that pervious pavement is successful in areas geared more to light use, not areas that will be used by trucks and significant traffic. Chairperson Claire stated that she would like to investigate the possibility of using pervious pavement in the west parking lot as there is concern about storm water runoff. Mr. Taylor stated that they would like to see more information about costs and viability of using pervious pavement in this type of parking lot.

Mr. Sagris stated that the recommendation of the Highway Superintendent was addressed by adding the catch basin and showing direction of water flow on the plans.

Kellie Dyjak, Board member, stated that the description of the size of the building needs to be corrected as the addition does not account for the area used for the drive-thru. Note #1 on the plans will be corrected from 420 sqft to 672 sqft. Ms. Scott will also change this on future description of the application.

Mr. Sagris concluded his presentation by requesting that the Board accept the application as complete and open the public hearing.

Mr. Miner asked Ms. O'Rourke about drainage in the area in the west parking lot towards Rte. 202/9. He stated that there is no catch basin there, and it appears that water will come across the road. Ms. O'Rourke stated that there is a small portion that crosses the entrance. Mr. Miner asked about water flow from the 54" concrete pipe and modeling based on high water of approximately 18 inches. No modeling was done in the area upstream. He stated that he is concerned about 50-year storms that could cause scour and washing in the area of the retention pond, thereby taking out the berm. He stated that he is not as concerned about the elevation as he is about the velocity. Ms. O'Rourke stated that 50-year storm calculations were used, and she also evaluated the area during the winter and early spring thaws. Mr. Guzouskas gave an example of what he saw happen to an area of Concord. He stated that the applicant and the Board need to do their best to ensure protection of that corner, and there are limits to computer modeling. Mr. Miner stated that he would be inclined to use the severe storms from 1-1/2 years ago instead of the example of the slow melting spring thaws that were experienced. Ms. O'Rourke stated that water flows in all areas are not huge. The areas are broken up so that any one piece does not cause too much of an increase of water.

Chairperson Claire asked for the Board's opinion on considering completeness. Board members stated that they are comfortable with considering the application for approval contingent on DOT approval. Mr. Osgood strongly suggested that the applicant research pervious pavement as it will improve the site plan. Mr. Sagris stated that he will investigate durability and viability of new technologies.

Ron Taylor **MOVED** to accept the application as complete. Kellie Dyjak **SECONDED** the motion. Motion **PASSED, 6-0.**

Chairperson Claire opened the public hearing at 8:10 pm. Hearing no public comment, the public hearing was closed. The case moved into the approval phase.

Mr. Osgood reiterated his request to investigate pervious pavement. Ms. Scott stated that another concern with pervious pavement, besides durability and cost, is having the septic system located under pavement. Chairperson Claire stated that pervious pavement could possibly be used only in the area of the west parking lot. Mr. Miner stated that the short turning radius of truck traffic will impact stability in that area.

Mr. Sagris stated that the bond for traffic lights is being done. He stated that the total estimated cost to install the traffic lights at the intersection is \$168,000; his portion is estimated to be \$12,000.

Chairperson Claire outlined issues to be considered:

- 1) Research pervious (permeable) pavement;
- 2) Delineation of 'no parking' signs;
- 3) Redi Rock building detail;
- 4) DOT approval for offsite improvements;
- 5) Turning lanes to be marked;
- 6) Correct square footage in Note #1

Mr. Miner stated that approval from the Town Engineer is need for items #5-10 listed under "Drainage and Hydraulic Modeling" in their report.

Mr. Osgood stated that one "No Parking" sign be removed on the south side of the road across from the west parking lot. All other signs are appropriate.

Mr. Miner stated that the handicap ramp off of the sidewalk from the west parking lot to the main parking lot should be eliminated.

Mr. Sagris stated that he would like to be able to do the following work to the site as soon as possible: 1) remove trees; 2) remove outbuildings; 3) install septic system.

Mr. Miner stated that he does not know enough about permeable pavement to make a decision on the issue relative to this case. He suggested that the topic be put on the Planning Board's agenda to research for future developments. Mr. Guzouskas agreed with this and acknowledged that the applicant has spent considerable time and money to develop a workable plan utilizing available technology. Mr. Osgood stated that Ms. O'Rourke, the applicant's engineer, has expressed her opinion on this matter. He does not believe that there is time to research all aspects of the technology on this particular development. Mr. Taylor stated his agreement with these comments. Chairperson Claire stated that she is mainly concerned with the west parking area and its proximity to the brook. She conceded that the Board can remove their request for the applicant to research the use of permeable pavement.

Ms. Dyjak **MOVED** to approve the application with the following conditions:

- 1) DOT approval for off-site improvements;
- 2) DES approval for sub-surface;
- 3) Revise plans showing removal of one No Parking sign;
- 4) Revise plans to correct Note #1 for accurate square footage;
- 5) Comments from Hoyle, Tanner & Associates memo, dated 6/27/08, need to be addressed. Hoyle, Tanner & Associates will need to review and approve these conditions:
  - a) Offsite Improvements Comments: #5, #7, #11, and #12
  - b) Details Comments : #1 & #6
  - c) Lighting and Commercial Signage Comments: #1
  - d) Water and Sewer Comments: #4
  - e) New Building Site Comments: #10, #11, & #12
  - f) New Drainage and Hydraulic Modeling Comments: #5, #6, #7, #8, #9, & #10
- 6) Eliminate handicap ramp off the sidewalk from west parking lot;

Mr. Guzouskas **SECONDED** the motion. Motion for conditional approval **PASSED, 6-0.**

### **New Public Hearings**

At this time, Jim McElroy rejoined the Board. Mr. Miner will continue as a voting member of the Board in Terry Stamps' absence.

Ms. Dyjak suggested a change to the agenda order so that the other applicant can precede her own application. The Planning Board agreed so Case #2008-001 was moved to the end of the agenda.

#### Case #2008-005 Lot Line Adjustment Application

Map 1 Lot 10 & 68 located on Bradford Road (NH Route 114) in Rural Residential (RR) Zoning District. The applicant, Joseph Wichert, on behalf of Ralene St. Pierre, is proposing a lot line adjustment that would modify Lot 10 from 6.19 acres to 35.25 acres and Lot 68 from 39.07 to 10.01 acres. The applicant is proposing a shared driveway and is requesting 4 waivers from the Subdivision Regulations.

Ms. Scott reviewed the items in the Board's packet. Joseph Wichert made the presentation requesting a Lot Line adjustment. He stated that one piece is a 6-acre parcel of land which has large wetlands considered part of Amey Brook. The other lot is a 39-acre parcel that has some of Amey Brook and as it crosses Route 114. USGS topography maps show the grade heading away from the road. Mr. Wichert stated that the intent is to allow access to both lots without impacting the brook. The simplest solution is to do a Lot Line Adjustment and reconfigure the lots. He stated that both lots could share the existing curb cut where there is ample line of sight. He stated that this is not considered a new subdivision.

They are requesting four waivers from the following sections of the Subdivision Regulations: 1) Section 202-9 J, Aerial or field topography of the subject parcel; 2) Section 202-9 N, Locations of proposed septic, wells and test pits; 3) Section 202-7 B2c, High intensity soil survey; 4) Section 202-7 B2, Contiguous buildable area calculation.

Mr. Wichert stated that the smaller lot was increased to 10 acres, and they have applied for a driveway permit from NHDOT. He showed areas which will require a dredge and fill permit. He stated that the plan allows them to do this with no impact to the brook. He stated that the Conservation Commission has asked for them to show 2-acre contiguous buildable area, but he is trying not to have to do topography of the entire area.

Chairperson Claire reminded the Board of the hardship criteria used in granting waivers.

The applicant stated that they have considered the aspect of current use. There was also discussion about a penalty being imposed whenever ownership of the lot is transferred or when building is begun.

Mr. Wichert stated that they are keeping the same number of lots, and are almost doubling the size of the smaller lot; the waivers are requested on the basis of these circumstances.

Mr. Taylor stated that the plan seems to be a reasonable solution.

The USGS contours show 15%-18% slopes from the front to the back of the property. There are some plateaus and some steeper slopes within the property. Mr. Wichert stated that he was confident that driveways could be kept to 12% grade or less. He stated that the full boundary survey has been done on the entire property, and the wetlands survey has been done by a certified wetlands scientist.

Mr. Miner stated that the sheer volume of work that is needed to create topographies, HISS maps and proving buildable area rises to the level of creating undue hardship for this parcel of land.

Mr. Wichert stated that he understands the criteria of proving hardship for a waiver; however, he stated that the intent of the ordinance must be taken into account. His plan is to keep two lots (one of them significantly improved), which validates the request for waivers.

Chairperson Claire stated that she would like to see two acres of buildable area on each lot.

Mr. McElroy stated that he also believes that there is value in moving the boundary line further away from Amey Brook, which meets the spirit of the ordinance.

Mr. Osgood called for a point of order in the process. While this is not a hearing, he reminded the Board that they had decided to allow public input on waiver requests.

Chairperson Claire recognized Bob Garrison, a neighbor, to make comments on these waiver requests. Mr. Garrison stated that it seems that a Lot Line Adjustment should not need anyone's approval. He stated that waivers are not really necessary until a building permit is pulled. He stated that the owner wants to create two better lots. If they should want to sell the lots, he said "buyers beware," and they should be responsible for determining if there is sufficient buildable area.

Ms. Scott explained that the regulations require this information similar to subdivisions for a lot line adjustment. An applicant must either meet the requirements or have the requirements waived.

Leon Parker stated that he is in favor of approving the waiver requests.

Chairperson Claire reviewed the waiver requests. It was the consensus of the Board that requiring field topography and a HISS map of the subject parcel are hardships in this case. Mr. Osgood stated that the use presented in this application weighs heavily into this decision. He stated that if more roads and lots were requested, this information would be necessary.

Chairperson Claire stated that if the decision is challenged in court, the burden is on the applicant.

Mr. McElroy stated that he is inclined to grant all requested waivers in this case. Mr. Taylor agreed.

Mr. Miner stated that the regulations require minimum two-acre contiguous buildable area. He stated that septic systems and wells can be placed almost anywhere. He supports granting all of the requested waivers in this case.

Ron Taylor **MOVED** to grant the waivers requested from Section 202-9J, Section 202-9 N, Section 202-7 B2c, and Section 202-7 B2. Gary Guzouskas **SECONDED** the motion. Motion **PASSED, 7-0.**

Mr. Wichert stated that they have applied for the driveway permit from NHDOT, but they have not yet applied for the dredge and fill permit from NHDES.

It is noted that Amey Brook is a first order brook; therefore, Shoreline Protection setbacks must be shown on the plan. The waivers must also be recorded on the plan.

Chairperson Claire **MOVED** to find the application complete with the following conditions: 1) Shoreline Protection setbacks to be shown on plan; 2) Waivers must be recorded on the plan. Gary Guzouskas **SECONDED** the motion. Motion for completeness **PASSED, 7-0.**

Chairperson Claire opened the public hearing at 9:34 pm. Hearing no comments, the public hearing was closed.

Mr. Guzouskas **MOVED** to grant approval for the Lot Line Adjustment pending receipt of 1) the driveway permit from NHDOT; 2) dredge and fill permit from NHDES; 3) shoreline protection setbacks added to the plan; 4) granted waivers added to the plan. Kellie Dyjak **SECONDED** the motion. Motion **PASSED, 7-0.**

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.

Ms. Dyjak disqualified herself from the Board as she is the applicant.

Ms. Scott reviewed her memo of June 4, 2008. She reported that fees were paid and noted that there are many waiver requests.

Ms. Dyjak, applicant, stated that nothing can be done to the house until this excavation is done. They anticipate over 200,000 yards to be removed. Ms. Dyjak showed the Board an area of approximately 25' straight uphill on the map within one USGS contour. Ms. Dyjak stated that the excavation application is designed for a company that is creating a pit, not for a property owner. She reported that the excavation will not be completed within one year.

Ms. Dyjak showed the area on the map where topsoil will be kept according to best management practices. She stated that rocks, boulders and stumps will be used or recycled. Stumps will be ground into mulch at Cousineau's. Michie Corp. will take the boulders for use on their property. Michie's and Cousineau's have both signed an agreement to reclaim the land and re-establish the borders..

The list of requested waivers was reviewed. It is noted that excavation will stop at road level. Ms. Dyjak noted that the water table is 30' below grade. Mr. Miner stated that one boring site would be required on a lot of this size.

Ms. Dyjak stated that best management practices will be instituted to address runoff during progression of the excavation. She anticipates the project will take three to five years to complete, and she will reapply for a permit from the Planning Board as necessary. She stated that the intent is to level the property to the Old Concord Road elevation.

The overall scope of the project was discussed. Chairperson Claire stated that it appears that this may be considered an expansion of current excavation onto an abutter's land. Mr. McElroy stated that there are some practical items that can be waived since the property is located next to an excavation site. However, he stated that engineering still needs to be done in consideration of the entire project.

Procedural issues concerning RSA 155-E were discussed. The Board discussed the cause for excavation for an immediate house expansion. Ms. Scott will research the feasibility of presenting one excavation application to the Planning Board that crosses three contiguous properties.

Mr. McElroy **MOVED** to table this application and request that the applicant attend the next meeting accompanied by the two abutters to show a more comprehensive view of the project. Mr. Guzouskas **SECONDED** the motion. The motion **PASSED, 6-0**.

Ms. Dyjak rejoined the Board.

#### **Review of June 25, 2008 Meeting Minutes:**

Minutes of the June 25, 2008 Planning Board meeting were reviewed and corrected. Chairperson Claire, Mr. McElroy, Mr. Miner and Leon Parker were Board members able to vote on the minutes as they were in attendance at that meeting. Mr. McElroy **MOVED** to accept the minutes as edited. Chairperson Claire **SECONDED** the motion. Motion **PASSED, 4-0**. Ms. Scott stated that she will make the necessary corrections and submit them to the Town secretary for distribution.

#### **Engineering RFP Review**

The Board discussed services they expect to receive from a consulting engineering firm. Mr. Guzouskas stated that the items listed become the basis for their contract. Ms. Scott will make the suggested changes and email them to Mr. Osgood and Mr. Miner for their review. The RFP will be posted in the Union Leader, The Concord Monitor, the Town website, and selected engineering firms. Ms. Scott asked that other distribution suggestions be emailed to her.

#### **Road Management Meeting Invitation**

Ms. Scott reviewed her memo of June 25, 2008 inviting members to attend the July 28, 2008 Road Management Committee meeting.

#### **Adjournment**

Mr. McElroy **MOVED** to adjourn the meeting at 11:10 pm. Mr. Miner **SECONDED** the motion, and it **PASSED UNANIMOUSLY**.

Respectfully submitted,

Jennifer Astholz  
Recording Secretary