

**SOMERSWORTH PLANNING BOARD  
MINUTES OF MEETING  
OCTOBER 17, 2012**

**MEMBERS PRESENT:** William Sweeney, Chairman, Anthony Delyani, Vice Chairman, Brian Tapscott, City Council Representative Alternate, Bob Belmore, City Manager, Ron LeHoullier, Paul Robidas, Dan Proulx, Erwin Grant, Ernie Gallant and Chris Cortez, Alternate.

**MEMBERS ABSENT:** None.

**STAFF PRESENT:** Dave Sharples, Director of Planning and Community Development and Tracy Gora, Planning Secretary.

The meeting was called to order at 6:30 p.m.

Delyani opened the meeting and stated that Cortez is a voting member as Sweeney and Gallant were not present yet.

**1) APPROVAL OF MINUTES**

**Motion:** LeHoullier moved to accept the minutes of the meeting of September 19, 2012.

Seconded by Belmore. Motion carried with a 3-0-5 vote with Tapscott, Proulx, Gallant, Robidas and Cortez abstained.

**2) COMMITTEE REPORTS**

**A) ZBA Report**

Sharples referred to the attached report and stated that the Zoning Board voted to table the variance request of Heath Dandeneau at the applicant's request. Stated that the Zoning Board voted to approve the variance request of Coastline Signs to allow a second freestanding sign and a changeable copy sign that is larger than allowed.

**B) City Council Report**

Tapscott stated that the City Council met last Monday and approved Resolutions 12-13, 14-13 and 15-13. Stated that there were first readings of Ord. 6-13, Res. 17-13, Res. 18-13 and Res. 19-13 and that public hearings are scheduled for the November City Council meeting.

**C) Site Review Technical Committee Report**

Sharples referred to the attached report and stated that the SRTC reviewed a site plan request for an office building at 506 High Street. Stated that the application will be before the Planning Board at their November meeting.

Gallant joined the Board.

Delyani stated that Cortez will be a voting member for Sweeney.

**D) Minor Field Modification Report**

None.

**E) Strafford Regional Planning Commission Update**

Tapscott stated that there is nothing to report.

F) Vision 2020 Report

Sharples stated that the Committee continues to work with the Somersworth Festival Association.

3) OLD BUSINESS

A) Any old business that may come before the Board.

None.

4) NEW BUSINESS

A) Eric Goldfine SERPT is seeking minor subdivision approval and a conditional use permit for development within the riparian buffer for property located on Old Rochester Road, in the Residential Single Family (R1) District, Assessor's Map 65, Lot 02, SUB #03-2012 and CUP #01-2012.

Public hearing opened 6:36 pm.

Sharples reviewed his memo (see attached) and stated that the applicant would like to subdivide the parcel into two lots. Reviewed the features of the existing lot and stated that the new lots will meet frontage and area requirements. Stated that there is City water but no municipal sewer and that there will be one dwelling unit per lot. Stated that a portion of the lot is in Dover and that they have approved the subdivision request. Stated that the application didn't go before the SRTC because it is a minor subdivision with no new roadways being created. Stated that they are also seeking a conditional use permit (CUP) for development within the buffer. Stated that when the developer was clearing the adjacent lot, they unknowingly cut into the buffer on this parcel so part of this permit is to restore what was done in error. Stated that the applicant went before the Conservation Commission and that they recommend approval. Stated that staff determined that the application meets the requirements of the district and passed out suggested conditions of approval.

**Bob Stowell** of Tritech Engineering Corporation represented the applicant and addressed the Board. Stated that the property is in two towns, it is on a State Road, will be serviced by septic systems and requires State subdivision approval. Stated that all of that has been accomplished. Stated that they have gotten State subdivision and septic approval, there will be two curb cuts and they have gotten a conditional approval from Dover. Stated that the (CUP) request is within all guidelines. Stated that the lot had City water and will have underground utilities.

**Norm Lemelin** of 176 Old Rochester Road addressed the Board. Stated that he understands that they are looking for a subdivision but that he doesn't know how they got a permit to build on the (adjacent) lot. Stated that other people were denied and that they don't even have 100 feet of frontage where 135 feet is required. Stated that they should combine the (adjacent) lot and do a lot line adjustment so there is a decent lot. Stated that he is not in objection to the proposal but that he feels that they should follow the rules. Stated that 29 years ago someone was not allowed to develop on the (adjacent) lot.

**Barbara Lovett** of 202 Old Rochester Road addressed the Board. Stated that her property directly abuts this property and that she is concerned that they have gone onto her property. Stated that she is concerned about the wetlands and the property lines.

Stowell stated that the buffer has been disturbed but that no wetlands have been disturbed. Stated that he doesn't know the history of the adjacent lot but that it is an undersized lot but that it pre-dated zoning so it is a grand-fathered lot of record.

LeHoullier stated that he is curious about Mr. Lemelin's concerns about frontage.

Stowell stated that the lot that Mr. Lemelin is concerned with is the abutting lot, which is part of the next item on the agenda. Stated that the adjacent lot is grand-fathered lot and pre-dates zoning.

Belmore asked if the lot was surveyed because an abutter has a concern with development on her lot.

Stowell confirmed that all of the development has been on the subject property.

Sharples stated that he has the files for the history of the adjacent lot and that it was granted a variance in 1984 to build a single family home. Stated that the lot pre-dated zoning so it is also covered by Section 6 of the Zoning Ordinance.

Proulx stated that there work was accidentally done in the wetland buffer and asked which lot that was on.

Stowell reference the plan and stated that it was all on lot 2.

Robidas asked Director Sharples to review the suggested conditions of approval.

Sharples read the suggested conditions of approval for the subdivision and the CUP. Stated that all restoration to the buffer is noted on the plans.

Cortez asked about the high water level of the brook.

Sharples read a note from the plans and stated that it isn't listed on the FIRM panel.

Belmore stated that suggested a condition with their recommended approval.

Sharples added that to his suggested conditions of approval.

**Public hearing closed 6:58 pm.**

**Motion:** Robidas moved that the request of Eric Goldfine SERPT for a minor subdivision be **APPROVED WITH THE FOLLOWING CONDITIONS:**

1. An electronic plan of the subdivision, in a dxf or dwg format and in NAD 1983 State Plane New Hampshire FIPS 2800 Feet coordinates, shall be submitted to the satisfaction of the City prior to recording the Mylar;
2. The Final plans shall show stone bounds on Old Rochester Road in accordance with Section 11.2 of the Site Plan Regulations; and
3. Final plans shall note all utility connections (including electric) shall be placed underground from Old Rochester Road.

Seconded by Belmore. Motion carried with a 9-0 vote.

**Motion:** Robidas moved that the request of Eric Goldfine SERPT for a conditional use permit for development within the riparian buffer be **APPROVED WITH THE FOLLOWING CONDITIONS:**

1. The area that is within the fifty (50') foot vegetative buffer shall be restored prior to the issuance of a Certificate of Occupancy. The Chairman of the Conservation Commission and the Director of Development Services shall determine when restoration has occurred but in no case shall restoration be complete until at least 85% of the proposed vegetation within the fifty foot buffer has been established; and,
2. The vegetative buffer shall be clearly marked in the field prior to the issuance of a building permit and remain in place until a Certificate of Occupancy has been issued;
3. The final plans shall note these conditions; and,
4. A Conservation Seedmix shall replace the originally proposed Wetland Seedmix in the restoration plan.

Seconded by Proulx. Motion carried with a 9-0 vote.

Sweeney joined the Board and Delyani stated that Cortez is no longer a voting member tonight.

- B) Eric Goldfine SERPT is seeking a conditional use permit for development within the riparian buffer for property located on 164 Old Rochester Road, in the Residential Single Family (R1) District, Assessor's Map 66, Lot 03, CUP #02-2012.

Sharples reviewed his memo (see attached) and stated that this is for a conditional use permit (CUP) for a single family home on an existing lot of record. Stated that the lot is nonconforming and is governed by Section 13.10.b of the Zoning Ordinance regarding CUPs. Review required and actual frontage and area. Stated that this lot was discussed during the last item so his comments from then are valid now. Stated that there was a variance granted to build a house but that it is also covered by Section 6 of the Zoning Ordinance. Stated that the Conservation Commission reviewed the application and determined that the proposal meets the intent of the ordinance and recommends approval. Stated that there are no suggested conditions of approval.

**Bob Stowell** of Tritech Engineering Corporation represented the applicant and addressed the Board. Stated that Sharples summed up the application very well. Stated that it is an existing lot and that they want to minimize disturbance. Stated that the Conservation Commission recommends approval, they got State septic approval and a State driveway permit.

**Public hearing opened 7:04 pm.**

**Public hearing closed 7:04 pm.**

Tapscott stated that the history for this property was given and that a variance was issued. Asked if the Board should go by the variance or by Section 6 of the Zoning Ordinance.

Sharples stated that the Board could go by either. Stated that they have the variance, which runs with the land, but the land also meets Section 6.

Gallant asked the applicant to check with the abutter to verify the property lines because she is concerned that they were going onto her property.

Belmore stated that the Conservation Commission reviewed this application and asked if they mentioned anything about the type of seed mix.

Sharples replied no and stated that no restoration is needed on this lot.

Delyani stated that the Conservation Commission stated that the intent of the ordinance is being met with the proposal but asked what the intent is that is being met.

Sharples stated that the Conservation Commission recognizes that a single family home can be built. Stated that the intent is to protect the wetlands and water quality as best they can. Stated that it is a modest house, that he doesn't think the proposed driveway could go anywhere else on the lot and that they are putting drip edge around the driveway.

Proulx asked where the wetlands are located.

Stowell showed on the plans and stated that the lot is closed in on both sides.

Proulx asked the applicant why they don't apply for a lot line adjustment so the lot meets current regulations.

Stowell explained why they couldn't take the frontage from the other lot. Stated that they wanted to leave it as an existing lot of record.

Grant asked if the proposed house is the maximum size house that can go in there. Asked if it is consistent. Stated that it seems like they are trying to put as big a house as possible and still maintain the wetlands.

Sharples stated that they are proposing a 26'x34' house.

Grant stated that it seems like they are trying to put a big house on a questionable house. Stated that he doesn't feel comfortable with it.

Stowell stated that he doesn't know how practical it is to go smaller with the house. Stated that it will have a drive-under garage to make it more compact. Stated that they are entitled to have a house on the lot and that it is small compared to other lots.

Grant stated that it seems like they are trying to put too much on the lot.

Delyani asked if the drip edge goes under the driveway.

Sharples replied no and stated that it is on the edges.

Sweeney asked if the Board would be setting a precedent with this.

Sharples stated that the Board needs to review each application on a case by case basis. Stated that the proposed house is 26' deed where 24' is the smallest you'd want to go.

Sweeney mentioned moving the proposed house to the left.

Sharples stated that it is up against the setback.

Sweeney asked if there needs to be a condition of approval that there is no addition to the home.

Sharples stated that any addition would need to come before the Board anyway.

Grant asked if there was any consideration for porous asphalt.

Stowell stated that there are poor soils because it is so close to the wetlands so porous pavement wasn't a good option. Stated that the drip edge acts as a filter before runoff goes into the wetland.

Sharples stated that this isn't a good place to install porous pavement because of the high water table.

Sweeney asked if the drip edge has a life expectancy.

Sharples stated that it depends on a lot of factors.

Tapscott mentioned the depth of the drip edge and asked if they are concerned with freezing in the winter months. Asked what kind of house they are putting in.

Stowell stated there will be a full basement with a drive-under garage. Stated that there will be a second story and that the septic will be in the front.

Belmore stated that the Conservation Commission reviewed this and recommends approval.

Sharples stated that if the Board feels that the application doesn't meet the intent of the ordinance then they could deny it.

Belmore stated that the Board would need to articulate why they feel it doesn't meet the intent of the ordinance.

Sharples stated that they just need relief for building within the buffer and that they don't need to go before the ZBA. Stated that if this lot was high and dry with no wetlands, all they would need is a building permit.

Delyani stated that even though the comments on the house size are well-intended, it seems as though it is beyond the scope of the Planning Board. Stated that the Board is just concerned with the buffer.

Sharples stated that he thinks as some point it could be a discussion but under different circumstances.

**Motion:** Robidas moved that the request of Eric Goldfine SERPT for a conditional use permit for development within the riparian buffer be **APPROVED WITH THE FOLLOWING CONDITION:**

1. Any additions to the structure shall require a conditional use permit from the Planning Board.

Seconded by Delyani. Motion carried with a 5-3-1 vote with Tapscott, Grant and LeHoullier opposed and Gallant abstained.

C) Any other new business that may come before the Board.

None.

## 5) **WORKSHOP BUSINESS**

A) Review and discuss the request from COAST Bus to allow advertising on their bus shelters.

Sharples reviewed his memo (see attached) and stated that there are a few options. Stated that the Board could adopt the COAST Bus policy by reference in the City's Sign Regulations or create a separate provision with their own criteria. Stated that he wanted input from the Board on what approach to take.

Sweeney stated that the COAST Bus policy looks good.

Robidas stated that it looks pretty tight.

Sweeney stated that the only thing he noticed that is not in there is the size of the signs but that it would be limited by the size of the bus shelter anyway.

Tapscott asked about photos of shelters with signs on them.

Sharples stated that the new shelters have a triangle side and the signage would be there. Stated that the older model shelters will have signage on the open glass.

Robidas stated that they are tastefully done.

Sweeney stated that he has seen shelters in other Cities where there is too much sign coverage.

Belmore asked what the process for adopting language.

Sharples stated that language would be drafted; the Board would hold a public hearing and then could vote to send the proposal to the City Council for adoption.

Belmore stated that the COAST Bus policy mentioned an appellate committee and asked if that would be the Sign Committee.

Sharples stated that it could be.

Belmore stated that he likes the idea that there is a way for review if there are complaints.

Sharples stated that he will look into an appeal process.

Delyani stated that he is glad to see that there cannot be advertisements for alcohol, tobacco or firearms. Mentioned content based limitations.

Sharples stated that Rad Nichols, the Executive Director of COAST Bus may be able to better answer that. Stated that he has to look into that.

Tapscott stated that he is speaking as a City Councilor now and stated that COAST Bus is doing this for revenue and asked what the City gains by allowing this.

Sharples stated that he feels that Nichols would be the one to answer that. In their original request, COAST said that they are always asking for more money and that this would help offset those costs.

Sweeney stated that there will be more research on the topic.

The Board took a recess to set up for the next item on the agenda.

B) RSA 79-E presentation.

The Board returned from recess.

Sweeney stated that there will be a presentation from Intern Paul Goodwin.

**Paul Goodwin** addressed the Board and gave a PowerPoint presentation. Stated that he is a lifelong Somersworth resident looking into graduate school for City Planning. Stated that he is with Sharples and that he is here presenting some research and to encourage the City in adopting RSA 79-E. Stated that RSA 79-E allows municipalities to provide tax incentives for the rehabilitation and active use of under-utilized buildings. Stated that the incentive is that the City freezes the pre-renovation value so the assessment doesn't increase until the end of the approved time period. Stated that the value can still fluctuate with the market. Stated that this incentive encourages revitalization for smart growth. Stated that a building has to be within a defined district and reviewed how a building can be a qualifying structure (QS). Showed a map of the proposed area, which encompasses the Historic District, the Downtown Business District and part of the R3 District. Stated that this area seems to warrant the most attention for rehabilitation.

Tapscott asked Goodwin how he determined the area for this.

Goodwin stated that he used already-defined zones. Reviewed the definition of Public Benefit and stated that to qualify for tax relief, a project must meet at least one definition of Public Benefit. Reviewed the definition of Tax Relief and stated that it can get the most confusing when the structure was destroyed by fire or an act of nature. Reviewed the tax relief period and stated that the base period is up to five years and that more time can be gain for up to 13 years of tax relief. Stated that the time period is determined by the local governing body. Reviewed the other communities in NH that have adopted this RSA.

Tapscott asked how the RSA is working in Rochester.

Goodwin stated that they have only had the RSA for a couple of months. Stated that Newmarket has used it to renovate the Mills.

Sweeney asked how long the tax relief period was.

Goodwin stated that he is unsure but that he thinks it was seven years. Stated that the tax relief period is the timeframe that the assessed value is frozen for.

Proulx referenced the example that was in the packets.

Goodwin reviewed the fictitious example from the packet.

Tapscott stated that the City has the last word and asked if the City would have to adopt an ordinance.

Goodwin stated that he has recommendations on how to move forward.

Tapscott asked if this is being utilized for workforce housing.

Goodwin stated that Berlin NH was his favorite case study. Stated that they were struggling with the revitalization of their town and that they are very pleased with the results of this. Stated that having strong language is very important so the City doesn't get taken advantage of. Stated that enforcement is key. Stated that there is an assessment cap and then the tax bill jumps at the end of the tax relief period. Showed the next case study in Concord NH. Stated that Berlin and Concord exclude low income housing. Reviewed the next case study in Manchester NH. Stated that Manchester revoked RSA 79-E because of ambiguity in the language.

Tapscott asked how the City can get around a developer just re-doing the carpeting of a large apartment building.

Goodwin stated that the language in Manchester wasn't good. Stated that they are planning to re-adopt the RSA. Reviewed the next case study from Durham NH where the residents were pleased with it. Stated that having specific criteria is important.

Sweeney stated that in the Durham example it seems that the spirit of the RSA was abused and that the town may have been taken advantage of.

Goodwin stated that the town wanted to see "the books" of the developer to see that they really needed the relief.

Belmore stated that Somersworth would be looking at market-rate housing.

Goodwin reviewed his recommendations for Somersworth to adopt RSA 79-E. Suggested having air-tight language and strong enforcement. Suggested using Berlin as a prototype. Stated that the City would write the covenants to assure no ambiguity. Suggested that a project must obtain and maintain a certificate of occupancy and conform to the Master Plan. Suggesting having considerations for defining the public benefit be specific to Somersworth. Stated that it is harder to find a public benefit for single family homes unless they are located in the Historic District. Suggested having a design review and being aggressive.

LeHoullier stated that the City could emulate the Berlin approach and limit it to market-rate housing.

Sweeney asked what happens when a developer takes advantage of the RSA and sells their property after the tax relief period.

Goodwin stated that it wouldn't affect anything because the value would still go up and the City would still collect the taxes from the new owner.

Sweeney asked what happens if the new owner doesn't maintain the property.

Goodwin stated that as long as there are covenants on it then the City can still enforce it regardless of the property owner.

Delyani asked Goodwin if he found problems with consistency and asked how the City Council stays consistent.

Belmore stated that the Council would adopt an ordinance and then there would be guidelines.

Goodwin stated that there is flexibility and that it is a discretionary bill.

Tapscott asked if HUD can use this RSA.

Goodwin stated that it can only be used on projects that are receiving less than 50% of grants, etc. Stated that it can interfere with TIF Districts.

Proulx thanked Goodwin for his presentation and stated that they can consider this as a Board.

Sweeney asked where the Board goes from here.

Sharples stated that if the Board wants to pursue this then they can review the draft and offer comments.

Sweeney asked if the City Council will see this.

Sharples stated that they would have to because only they can adopt it.

Tapscott suggested a joint meeting with the Planning Board and the Council.

Robidas stated that he sees the upside of this but that he has reservations about having the subject area go up on the hill. Stated that his biggest concern is with enforcement. Stated that the City already has enforcement issues.

Tapscott agreed and stated that he is concerned with the proposed area for the district and that it should be kept in the downtown area.

Belmore stated that there would be a legal document which would be the hammer for the enforcement. Stated that there would be a document and not vague enforcement language. Asked if any application for the RSA would come before the Planning Board.

Goodwin stated that he proposes that there would be a design review aspect to the application, which would come before the Planning Board. Stated that smart growth is at the core of this.

Belmore asked if there is a Master Plan goal to look into this.

Sharples replied yes.

Belmore stated that the Planning Board is charged with the Master Plan and that they could make suggestions to the Council.

Sweeney stated that he agrees with Robidas regarding the enforcement of it. Stated that they have to look at legal costs versus enforcement. Asked if the City is really going to enforce things because of the legal costs.

Sharples stated that there are regulations and that if a project is not meeting them, then the City could pull the relief and be taxed at full value.

Belmore stated that this is a creative strategy for people to invest and rehabilitate their property to make a more robust downtown. Stated that it could create a better climate downtown. Stated that he doesn't think there would be too much enforcement because the City could revoke the approval.

Goodwin agreed and stated that the approval can be revoked and that he thinks that the City may be able to retrospectively collect taxes. Stated that Manchester revoked it because they didn't have strong enough language.

Grant asked if there is a procedure to make decisions on consistency.

Goodwin stated that each town individually adopts language and stated that Berlin's is air-tight.

Grant asked who the people are that adopt this.

Goodwin stated that it is the governing body; the City Council.

Sharples stated that the application would go to the City Council.

Goodwin stated that there is a public hearing in the process.

Grant asked if there would be training for the Council.

Goodwin stated that he would give a presentation. Stated that there are resources. Stated that a lot of building may qualify in Somersworth.

Belmore stated that the draft hasn't been internally reviewed by anyone in the City yet and that this is in its infancy. Stated that there is a lot of work to be done.

Sweeney asked if the Board is giving recommendations to the Council.

Tapscott replied not yet.

Sharples stated that the Planning Board could discuss the again.

Robidas stated that he thinks the Board should read the packet and discuss this at a workshop meeting.

C) Any other workshop business that may come before the Board.

Sharples stated that it is CIP time for the City and suggested that the Board have a workshop meeting to review it prior to the next regular Planning Board meeting.

Belmore stated that he will mostly likely be giving a presentation.

Sharples stated that the regular meeting will be on Tuesday, November 20 because of the Thanksgiving holiday.

Grant asked, regarding the RSA 79-E workshop, if there can be a representative from another community who has adopted it attend.

Sharples stated that they can invite people.

#### 6) COMMUNICATION AND MISCELLANEOUS

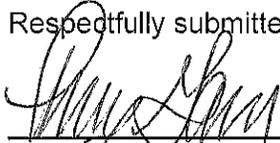
Tapscott stated that Somersworth is celebrating Veteran's Day on November 11 at 7:00 pm at the American Legion.

**Motion:** LeHoullier moved to adjourn the meeting.

Seconded by Delyani. Motion carried with a 9-0 vote.

Meeting adjourned at 8:45 pm.

Respectfully submitted:



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Tracy Gora, Planning Secretary  
Somersworth Planning Board