

**SOMERSWORTH PLANNING BOARD
MINUTES OF MEETING
AUGUST 19, 2015**

MEMBERS PRESENT: Ron LeHoullier, Chair, Harold Guptill, Vice Chair, David Witham, City Council Representative, Bob Belmore, City Manager, Paul Robidas, Mark Richardson and Jeremy Rhodes.
MEMBERS ABSENT: Aaron Fournier.
STAFF PRESENT: Dave Sharples, Director of Planning and Community Development and Tracy Gora, Planning Secretary.

The meeting was called to order at 6:30 pm.

1) APPROVAL OF MINUTES

Motion: Guptill moved to accept the minutes of the meeting of July 15, 2015.

Seconded by Belmore. Motion carried with a 5-0-2 vote with Robidas and Richardson abstained.

2) COMMITTEE REPORTS

A) ZBA Report

Sharples reviewed the attached report (see attached) and stated that a special exception was granted for Tri City Covenant Church to have two residential structures connected by a common meeting room. Stated that there was a variance granted to rebuild a deck within rear setbacks and also a variance to replace a mobile home with a larger mobile home.

B) City Council Report

Witham stated that at the meeting last Monday the Council approved a panhandling ordinance prohibiting passing items from a vehicle to a person on the road. Stated that the Council also approved funding for Service-palooza, which is a day where Timberland workers are coming to the City to do three community projects. Stated that the Council is considering putting security cameras at Noble Pines but that the idea has been sent to the Finance Committee for further review.

C) Site Review Technical Committee Report

None.

D) Minor Field Modification Report

None requested.

E) Strafford Regional Planning Commission Update

LeHoullier stated that there were reports in the packets and stated that there is still a position as an SRPC member available and to see the Planning Office for more information.

F) Vision 2020 Committee Report

Sharples stated that the Committee met a few weeks ago and they are going to make small “palm cards” to hand out to realtors to highlight the benefits of Somersworth.

3) OLD BUSINESS

- A) John J. Flatley is seeking a conditional use permit and site plan approval to construct three apartment buildings with associated site improvements on property located on Tri City Road, in the Business (B) District, Assessor’s Map 39, Lot 03, SITE #12-2014.

Sharples reviewed his memo (see attached) and stated that the Board and applicant understand that this item has been on the agenda for quite sometime and the Board is prepared to act. Stated that the bulk of the discussion has been regarding a sidewalk from the proposed development to High Street. Stated that Attorney Bruton has submitted a letter agreeing to construct a sidewalk from High Street to the bus stop at the entrance to Tara Meadows. Stated that the sidewalk will have raised granite curbing along the entire length and will tie into the existing sidewalk. Stated that he has 17 suggested conditions of approval but that #15 would be replaced with the language from Bruton’s letter if the Board went in that direction.

Motion: Witham moved that the site plan application of John J. Flatley be removed from the table.

Seconded by Robidas. Motion carried with a 7-0 vote.

FX Bruton, attorney for the applicant addressed the Board and stated that there has been a lot of back and forth but that he is hopeful that the Board considers that the applicant is trying to work with the Board. Stated that he feels that they have addressed what the Board is looking for. Stated that they are hoping for approval tonight.

Robidas stated that they have gone back and forth with this for a while and that he was always concerned with traffic and safety but it looks that they have submitted what he has asked for. Stated that safety is invaluable to that area and that there will be more pedestrians with this development.

Witham echoed Robidas’ comments and stated that he feels this meets the goal that he has been trying to achieve. Stated that he feels this project has an impact on the community and that he is comfortable moving forward with it tonight. Stated that they are requesting a waiver from granite curbing and that he is in support of that. Stated that the engineer indicated that not having granite curbing was more for traffic flow than drainage. Stated that he is fine with the conditional use permit. Stated that there was discussion on the emergency gate and that there will be a lock box for emergencies. Stated that he would like a condition that the emergency access be maintained during the winter.

Bruton stated that the applicant wouldn’t object to that.

Richardson apologized for not being present at the last meeting. Stated that he is pleased that the water treatment idea was dropped and that he likes the sidewalk provision. Stated that because of those two changes he supports the proposal.

Granite Curbing Waiver Request: Witham moved that the request of John J. Flatley for a waiver from Section 11.4.b.iv of the Site Plan Review Regulations regarding granite curbing be **APPROVED.**

Seconded by Guptill. Motion carried with a 7-0 vote.

Conditional Use Permit Motion: Robidas moved that the request of John J. Flatley for a conditional use permit be **APPROVED WITH THE CONDITION** that the access roadway pavement be widened by at least four feet (4') for pedestrian and bike access.

Seconded by Guptill. Motion carried with a 7-0 vote.

Sharples read the suggested conditions of approval and stated that the language for getting the money from Key Auto to widen the drive was from the City Attorney.

Witham asked if they will be cutting into the new pavement during the moratorium.

Sharples continued reading the suggested conditions of approval and that it will be addressed.

Site Plan Motion: Witham moved that the request of John J. Flatley for a site plan to construct three apartment buildings with associated site improvements be **APPROVED WITH THE FOLLOWING CONDITIONS:**

1. An escrow account, in an amount agreeable to the City, will be established for site (including any offsite improvements) and building construction inspections prior to any site work;
2. A pre-construction meeting with the City is initiated and scheduled by the applicant and held prior to any site work;
3. All applicable municipal sewer and water connection fees shall be paid prior to the issuance of a building permit;
4. An electronic As-Built Plan of the entire property with details acceptable to the City shall be provided prior to the issuance of a Certificate of Occupancy (C/O). This plan must be in a dwg or dxf file format and in NAD 1983 State Plane New Hampshire FIPS 2800 Feet coordinates;
5. A Maintenance Log and Inspection & Maintenance Checklist for the stormwater management systems shall be provided to the satisfaction of the City prior to signing the final plans. A completed log and checklist shall be submitted to the City annually on or before January 1st. This requirement shall be an ongoing condition of approval;
6. All outdoor lighting (including security lights) shall be down lit and shielded so no direct light is visible from adjacent properties and roadways;
7. All landscaping shown on plans shall be maintained and any dead or dying vegetation shall be replaced, no later than the following growing season, as long as the site plan remains valid. This condition is not intended to circumvent the revocation procedures set forth in State statutes;
8. If development of the applicant's property proceeds before the development of the Key Auto Group property, the applicant shall construct the improvements to Tri City Road shown on the Key Auto Group site plans, case #11-2014. If Flatley does not receive a 50% contribution toward those costs from Key Auto Group, the City shall collect that 50% share from Key or its successor prior to issuing a building permit for the Key property, and shall pay that amount to Flatley as a capital cost recovery;
9. The public improvements to Tri-City Road referenced in #8 above and shown on plan C10 on the Key Auto Group Site #11-2014 plans, shall be reviewed and approved by the City Engineer to insure that the details of the construction (such as pavement depth, gravel base, thermoplastic line striping etc.) are the same that the City used in the recent reconstruction project on High Street and Tri-City Road. This review and approval shall occur prior to signing the final plans. The City Engineer, Dubois & King, shall provide construction oversight for this work at the applicant's expense;
10. The applicant shall request and secure a waiver from the City Council from City Ordinance Chapter 12 Streets and Sidewalks to excavate during the 5 year moratorium period prior to any site work. An Irrevocable Letter of Credit shall be required to secure the work. This waiver is necessary due to the recent improvements to High Street and Tri-City Road made by the City;

11. A copy of the approval letters of all applicable State & Federal permits shall be provided to the City prior to signing the final plans;
12. Easements/deed restrictions/agreements shall be provided for utilities, drainage, and emergency access to the adjacent parcel as recommended by the SRTC and CLD Engineering in comments #2.f and 6.m in the second review letter dated January 28, 2015. These easements/deed restrictions/agreements shall be reviewed and approved by the City and their attorney at the applicant's expense and prior to signing the final plans and recorded at the Registry of Deeds prior to the issuance of a C/O;
13. The applicant addresses all past and future comments from CLD Consulting Engineers, Inc. to the satisfaction of the Director of Planning and Community Development prior to signing the final plans and agrees that any unresolved items shall be brought back to the Planning Board on their next available agenda;
14. The applicant shall show a NHDOT approved crash tested wooden guard rail terminal unit or provide a draft indemnification to the City that will be reviewed and approved by the City attorney at the applicant's expense prior to signing the final plans;
15. Prior to the issuance of a certificate of occupancy, the applicant shall construct a sidewalk from the existing sidewalk off High Street to the bus stop located on Tri City Road that is connected to the development known as Tara Meadows. The sidewalk shall be constructed in accordance with the sidewalk plan of Tara Fields, prepared by Fieldstone Land Consultants, PLLC dated February 27, 2015 as last revised on August 7, 2015. Vertical granite curbing will extend along the entire length of the proposed sidewalk. Upon commencement of construction, the applicant shall provide the City with an Irrevocable Letter of Credit, with an automatic call in favor of the City, in an amount agreeable to the City for the cost of construction of the sidewalk;
16. All proposed utilities (including electric, phone, cable, etc.) shall be placed underground in the public right-of-way and on the subject property in accordance with Section 11.3 of the Site Plan Regulations;
17. Emergency access shown on the plans connecting lots 39 02 and 39 03 shall be maintained to allow emergency access on a year round basis; and,
18. All conditions of approval shall be noted on the final plans.

Seconded by Robidas. Motion carried with a 7-0 vote.

B) Any other old business that may come before the Board.

None.

4) NEW BUSINESS

A) Jeff Catalano, on behalf of Fred Schneider is seeking site plan approval for the sale and display of sheds on property located at 208 Route 108, in the Commercial Industrial (CI) District, Assessor's Map 62, Lot 09, SITE #02-2015.

Sharples reviewed his memo (see attached) and stated that the proposal is for the sale and display of sheds with no other improvements except for a small amount of paving. Stated that the City did receive a complaint about the sheds being there. Stated that the applicant appeared before the SRTC and responded to the numbered comments. Stated that there was a site plan approved in 1995 that included a new curb cut, parking, another building and additional pavement. Stated that most of the pavement was installed but the drainage wasn't put in and that needs to be resolved. Stated that catch basins and landscaping didn't get put in. Recommended tabling this for tonight but still having the public hearing.

Jeff Catalano, the applicant, addressed the Board and stated that the site plan that was approved in the 1990s for auto sales is incomplete. Stated that it was started but never finished. Stated that he wants to add the sale and display of sheds. Stated that they need to

work out the drainage and determine the work that was done. Stated that he is not looking to change anything but to add shed sales along with vehicle sales.

Public hearing opened 7:02 pm.

Glenn Garvin, abutter at 8 Adams Court addressed the Board and stated that he has no issues with the owner and employees but that he lives directly behind this property the building is very close to his house. Stated that he can see and hear everything that goes on at that building. Stated that he doesn't think they are doing anything wrong but that he can see and hear everything and it is frustrating. Asked that a privacy fence between the two properties be installed to reduce the noise and what they can see. Stated that he realizes that this isn't about the vehicles but that they have big trucks moving the sheds around. Stated that he doesn't have an issue with the business but that he would like a privacy fence.

Sharples stated that he mentioned earlier that the landscaping hadn't been done but that it is shown on the plans that the members have because it is a copy of the 1995 site plan that was approved. Stated that some landscaping that needs to be put in would help with noise and sight.

Witham asked which was there first; Adams Court or the auto sales. Stated that it might help explain all the vegetation that was planned.

LeHoullier asked Mr. Garvin when he bought the house.

Garvin stated that he has been there for six years.

Belmore asked Sharples to go over any new proposals with the abutter moving forward.

Rhodes mentioned #7 from the SRTC comment letter and the leaky barrels that were removed from the site. Asked if there was any check done for the impact of the leakage.

Catalano stated that there were drums filled with rainwater and Safety Kleen came out to the site and emptied and checked around them. Stated that the soil was scrapped and the company didn't feel that much had leached out. Stated that the soil was removed from the site.

Belmore asked for a manifest because he is worried about where the soils went after they were removed.

Sharples stated that he was going to request documentation of what Safety Kleen did.

LeHoullier asked if Schneider was the owner during the original site plan.

Sharples replied yes.

Richardson asked when Safety Kleen came out to the site.

Catalano stated about 60 days ago.

Witham asked what the nature of the complaints against the property was.

Sharples stated that the complaint was from the owner of the former landscape clinic and that he was concerned with looks and aesthetics.

Belmore stated that he doesn't want to hurt the business and he doesn't know how long this process will take and asked if they should allow the applicant to continue.

Sharples stated that staff has talked about that and that the applicant is moving forward with the process and doing everything that is asked. Stated that he expects this to be resolved soon.

Belmore asked Sharples if he has let the complainant know where they are at with the process. Asked if the Board should consider modifications to the sheds on the front of the property. Suggested just having a few sheds in the front and storing the rest at the back of the property.

Robidas stated that he feels that they should give the applicant a certain time to have this all resolved or the use must cease.

Witham stated that agrees with that concern because the Board encourages development however there is a complaint and a violation. Stated that there are times when the Board works with applicants to resolve issues and that he is willing to do that here. Stated that it doesn't seem like the applicant want to drag his feet on this.

Site Plan Motion: Robidas moved that the request of Jeff Catalano, on behalf of Fred Schneider for a site plan for the sale and display of sheds be **TABLED** until the September 16, 2015 Planning Board meeting.

Seconded by Belmore. Motion carried with a 7-0 vote.

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

LeHoullier stated that a voluntary merger has been submitted and needs to be considered by the Board.

Sharples reviewed his memo (see attached) and stated that the merger request was submitted after the agenda for the meeting was posted but that State law doesn't require any public notice requirements. Stated that State law says that the Board shall approve the request unless it creates a violation of current ordinances but that he has researched the request and it does not. Stated that the two lots are owned by the same entity and that he recommends approval of the request. Stated that if approved, the lots cannot be un-merged without subdivision approval.

Motion: Guptill moved that the request of Jenifer & Jon Gould for a voluntary merger be **APPROVED**.

Seconded by Robidas. Motion carried with a 7-0 vote.

5) **WORKSHOP BUSINESS**

A) Training opportunities.

Sharples referred to the attached training notification and stated that he wants to highlight the NH Municipal Association Lecture Series. Stated that he is not sure how relevant this year's series is to the Planning Board but he wanted to bring it up because they are very good lectures.

B) Any workshop business that may come before the Board.

None.

6) **COMMUNICATION AND MISCELLANEOUS**

Witham stated that he was contacted a few months ago from a local business owner and we discussed his concerns with the many vehicles at Contitech Thermopol. Stated that they have three working shifts and they have a lot of vehicles parked on the lawn and too close to the Route 108 intersection. Stated that it is important that they get a site plan amendment if they need additional parking. Stated that it doesn't look good, isn't good for the environment and asked where the snow will go in the winter. Stated that this needs to be addressed formally.

LeHoullier asked if they recently got site plan approval.

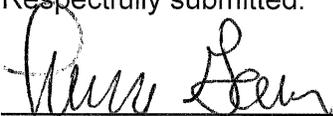
Sharples replied yes but stated that they didn't pursue that addition.

Motion: Robidas moved to adjourn the meeting.

Seconded by Guptill. Motion carried with a 7-0 vote.

Meeting adjourned at 7:21 pm.

Respectfully submitted:



Tracy Gora, Planning Secretary
Somersworth Planning Board