

**SOMERSWORTH PLANNING BOARD
MINUTES OF MEETING
July 15, 2020**

MEMBERS PRESENT: Ron LeHoullier, Chair, Jeremy Rhodes, Bob Belmore-City Manager, David Witham, City Council Representative and Mark Richardson, Alternate, Paul Robidas, Keith Perkins – Alternate and Chris Horton

EXCUSED MEMBERS: Harold Guptill- Vice Chair and Jason Barry

STAFF PRESENT: Shanna B. Saunders, Director Development Services, Dana Crossley Planning Secretary

The Meeting was called to order at 6:36 PM.

Director Saunders stated due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically. The public has access to watch to this meeting through the Local Government Cable Access Ch. 22 (Comcast), and streamed live through the City's website at www.somersworth.com. Although this is a public meeting, the public is encouraged not to attend and instead to leave comments or concerns at the following phone number # 1-603-841-2936, by emailing planning@somersworth.com or by sending written comment to Planning Board, 1 Government Way, Somersworth NH 03878. Comments must be received no later than 4pm the day of the meeting. She stated all votes will be taken by roll call votes.

Roll call attendance was taken: Rhodes, Witham, Richardson, and Horton were in attendance remotely and were alone. Belmore, Robidas, LeHoullier, Perkins, Director Saunders, and Planning Secretary Crossley were present in Council Chambers of City Hall.

LeHoullier appointed Perkins and Richardson as full voting members for the meeting.

1. **Approval of the minutes of the meeting of June 17, 2020.**
Motion: Robidas MOVED to accept the June 17, 2020 minutes as presented.

Seconded by Horton.

The MOTION CARRIED by a 9-0 roll call vote.

2. **COMMITTEE REPORTS**
Land Use Board Reports (ZBA, HDC, Conservation Commission, SRTC, Minor Field Reports):
No comments.

City Council Report: Witham stated the bond to construct the new Fire Station was approved at the last Council meeting. He stated they expect to complete the engineering by the fall, go out to bid in the winter and start construction in the spring of 2021.

Strafford Regional Planning Commission (SRPC) Update: No comments.

3. **OLD BUSINESS**

- A) **Brixmor Tri City Plaza, LLC, is seeking site plan approval to construct 3,500 SF medical/dental building and site improvements with waivers on a property located at 8 Tri City Plaza, in the Residential/Commercial (R/C) District, Assessor's Map 40 Lot 5C, SITE#03-2020- PUBLIC HEARING**

Saunders stated this application was tabled to allow the applicant time to work on control of the ingress, landscaping and signage. She stated the applicant has provided a plan to address the ingress and signage. She stated they will discuss the landscaping changes. She reviewed the conditions that have changed from the first staff report. She stated the free standing sign appears to overhang the sidewalk and that will need to be removed or reduced. She stated if the ingress remains, a crosswalk will need to be installed. She stated if the extended center island is installed there is a condition on hold for that.

MOTION: Robidas, stated I move to remove the Brixmor site plan application from the table for review and discussion.

The MOTION is SECONDED by Belmore.

The MOTION CARRIES by a 9-0 roll call vote.

Joey Fonseca of Bohler Engineer and **Giles Ham** of VAI were in attendance virtually to represent the application.

Fonseca reviewed the plan revisions from the last meeting. He stated they have revised the ADA parking spaces to ensure the vans will be able to back out adequately. He stated there are two existing do not enter signs located by the ingress only. He stated one will remain in place and the other will be relocated due to the realignment of the curbing. He stated the free standing sign on the plan shows that it overhangs over the sidewalk. He stated the actual sign is much narrower than the digital image and they will adjust the plan image.

Fonseca stated they are willing to install a crosswalk at the ingress only. He stated there will be exit arrows installed to direct traffic towards the full movement driveway. He stated the traffic engineer's team proposed a plan to extend the existing center median by 63' on High Street to help deter left turns into the right-in-only ingress. He stated the existing sign in the median would be relocated to the new end of the median. He stated they received feedback from the City Engineer in regards to the median, but most of the comments were applicable to construction. He stated the construction details would be added to the final plans.

Fonseca reviewed the updated staff report. He stated they have changed the honey locust tree to a red maple. He stated it will have a similar canopy but should alleviate visibility concerns previously discussed. He stated the final architecture plans will show that the EIFS will be below 8'.

LeHoullier opened the public hearing.

Saunders stated no comments were received regarding this application.

LeHoullier closed the public hearing t 6:54PM.

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Robidas stated his concerns have been addressed and he is happy with the proposed amendments. He stated the median addition is a good compromise and he does not have any other concerns. Horton stated he felt the same as Robidas. He asked for more information on the pavement setback waiver.

Fonseca stated the pavement waiver request is for along High St. He stated it is an existing non-conformity and the proposed curb line is an improvement to what is there. He stated they still do not meet the requirements and therefore need the waiver.

Witham stated he agrees that the applicant has done good work finding a reasonable compromise to the Board's concerns. He stated the traffic island extension will help solve the issue and will not negate any of the leases within the property. He stated he is fine with the waiver requests. He stated he wants to ensure that the traffic island condition specifies that it must be built to City specifications.

Rhodes stated his concerns had been the ingress and the landscaping. He stated the solutions being presented are good solutions. He stated he appreciates the landscape efforts put forward.

Richardson stated he also likes the traffic island and feels it is a good solution.

MOTION: Robidas stated, I move that the request of Brixmor Tri City Plaza LLC, for a waiver from Section 11.4.b.vii of the Site Plan Review Regulations to allow pavement within required setback be APPROVED.

The MOTION is SECONDED by Rhodes.

The MOTION CARRIES by a 9-0 roll call vote.

MOTION: Robidas stated, I move that the request of Brixmor Tri City Plaza LLC, for a waiver from Section 11.4.b.viii.5 of the Site Plan Review Regulations regarding the number of shade trees be APPROVED.

The MOTION is SECONDED by Horton.

The MOTION CARRIES by a 9-0 roll call vote.

Saunders reviewed the conditions of approval.

Motion: Robidas stated, I move that the request of Brixmor Tri City Plaza, LLC, for site plan approval to construct 3,500 SF medical/dental building and site improvements be APPROVED WITH THE FOLLOWING CONDITIONS

1. PLAN REVISIONS:

- a. The notation for the freestanding sign associated with this building overhangs the public sidewalk please fix.
- b. The Board talked about a continental style crosswalk across the ingress. Please add to the plan.

- c. You added an “exit” with right arrow sign at the east end of the aisle that comes straight off the ingress but I also think one should be added to the next aisle south, as that is within your development area, as well. Please add to the Plan.
- d. The tree species Honey Locus is not allowed in the City as it is considered invasive in this area. Please remove and replace with a different species of tree.
- e. EIFS is proposed. This is not permitted below 8’ and strongly discouraged above 8’. Please amend on plan and in Building Permit submittal.
- f. Please add the 63’ extended center island on High Street to the plan. Details for installation must be to the satisfaction of the City Engineer including:
 - i. No major objection to extending the center island; it’s a minor plowing issue but there’s already an island to work around so that should be okay.
 - ii. We don’t have much of a comment on the length of the extension, but want to make sure that it’s appropriate to meet the design intent.
 - iii. Island must be sloped granite curbing to match the existing island in reveal, slope, etc., and be set in concrete.
 - iv. Crack seal the new seam they make from the saw-cut.
 - v. Center will be solid concrete to match the existing island.
 - vi. Add a yellow delineator in the center and move the signage out to the new front of the island.
 - vii. This section of High Street is no longer in moratorium, so no additional patching treatment would be required.
 - viii. Please make sure that the mortar is appropriately installed to prevent as much weed/vegetation growth as possible.

2. CONDITIONS THAT MUST BE MET PRIOR TO FINAL APPROVAL

- a. Construction Cost estimate for this project shall be submitted to the Department of Development Services
- b. The final plans shall bear the stamp and signature of the engineer, licensed land surveyor, and the landscape architect. Please submit five folded 24” x 36” paper copies of the full set of plans to the Office of Development Services for final endorsement.

3. CONDITIONS TO BE COMPLETED PRIOR TO THE START OF SITE WORK:

- a. A preconstruction meeting is required prior to the start of work. Please contact the Department of Development Services to schedule this at least 1 week prior to breaking ground;
- b. An escrow account, in an amount set by the City’s contract Engineer and agreeable to the Director of Development Services (or their designee), will be established for site construction inspections prior to any site work;
- c. A performance surety, in an amount agreeable to the Director of Development Services (or their designee), but no less than 25% of the cost of site construction determined by the engineer’s estimate of construction value, will be established for on-site erosion control and site restoration prior to any site work. If all site work is completed as proposed this account will be refunded;

- d. The applicant shall apply for a new Water and Sewer Connection Permit for the change in use; The applicant will be required to pay standard water and sewer connection fees assessed on new properties connecting to the water and sewer system. Water fees will be based on the size of water meter needed and the sewer connection fees will be based on estimate of water used and equivalent number of bedrooms; and,
- e. Erosion control shall be properly installed on site PRIOR to any construction. Erosion control shall be properly maintained throughout construction; any breaks or breeches shall be repaired within 48 hours of the storm event.
- f. LANDSCAPING SURVIVAL SECURITY: Ten percent (10%) of the total cost of landscaping or a minimum of five hundred (\$500) dollars, whichever is greater, shall be held for a period of 2 growing seasons to guarantee the survival of the landscaping installation.

4. CONDITIONS APPLICABLE DURING AND AFTER CONSTRUCTION:

- a. There shall be no wetlands degradation during construction;
- b. A copy of the completed Stormwater Inspection & Maintenance Log shall be provided to the Development Services Department annually on or before January 1st. This requirement shall be an ongoing condition of approval and noted on the final plans;
- c. All landscaping shown on plans shall be maintained and any dead or dying vegetation shall be replaced in a timely manner as long as this site plan remains valid;
- d. All outdoor lighting (including security lights) shall be down lit and shielded so no direct light is visible from adjacent properties and roadways; and,

5. AS-BUILT PLANS.

- a. Within thirty days of the completion of the project and prior to the issuance of an occupancy permit, an electronic As-Built Plan of the proposed development with details acceptable to the Director of Development Services (or their designee), shall be provided in either .pdf and paper copy. Once approved by the Director of Development Services (or their designee), the applicant shall submit final Asbuilts in both paper copy and on CD. This plan must be in a dwg or dxf file format and in NAD 1983 State Plane New Hampshire FIPS 2800 Feet coordinates;

DURATION OF APPROVAL: All conditional approvals shall be valid for a period of 120 days in which time all precedent conditions must be met or the approval shall be null and void. The applicant may request an extension no later than 14 days prior to expiration.

EXTENSIONS: All requests for extension must be submitted in writing to the Department of Development Services no later 14 days prior to expiration with the appropriate fees. Failure to comply with the deadline dates without submission of a written request for extension will result in the approval being null and void.

APPEAL PROCESS: Pursuant to RSA 677:15, an aggrieved party may appeal this decision to the Strafford County Superior Court within 30 days of the date the Board voted to approve or disapprove the application, or to the ZBA pursuant to RSA 676:5, III within 30 days of the date the Board made its decision.

The MOTION is SECONDED by Horton

The MOTION CARRIES by a 9-0 roll call vote.

- B) Any old business that may come before the Board.
No other old business.

4. **NEW BUSINESS**

- A) **Francis J. & Dione N. Nichols are seeking a Conditional Use Permit to construct a 384 SF addition and deck within the Riparian & Wetland Buffer on a property located at 111 Rocky Hill Road, in the Residential Single Family (R-1) District, Assessor's Map 51 Lot 23, CUP#03-2020 PUBLIC HEARING**

Saunders stated this property is a single family home looking to put an addition on that is before the Board because it requires a Conditional Use Permit for impacts to the riparian and wetland buffer. She stated the Conservation Commission reviewed the application and recommended approval with no conditions. She stated she recommends that the Board approve the application with conditions for erosion control, no wetlands impact and to have asbuilts submitted. She stated it is a simple application with no other alternative on the lot.

Bob Stowell of Tritech Engineering and **Dione Nichols** property owner were in attendance remotely to represent the application.

Stowell stated this property is located on Rocky Hill Road and the single family home was built in 1981. He stated the site has an existing septic and shed. He stated the wetlands have been identified on the property. He stated the request is for a 16' x 24' addition with a deck. He stated the additions are further away from the wetlands than the current construction. He stated they have proposed erosion control between the house and shed for any potential run off. He stated the application was reviewed by the Conservation Commission and was well received.

LeHoullier opened the public hearing.

Saunders stated no comments were received for this application.

LeHoullier closed the public hearing.

Horton stated this application appears to be straight forward. He stated he appreciates the information presented and supports the application.

Rhodes stated the work they are looking to do is further from the buffer than current construction. He stated the applicant has volunteer without request from the Board to install the silt soxx and feels they are taking the necessary precautions. He stated he has no concerns over this application.

Motion Horton stated, I move that the request of Francis J. & Dione N. Nichols for a Conditional Use Permit to construct a 384 SF addition and deck within the Riparian & Wetland Buffer be APPROVED

The MOTION is SECONDED by Rhodes.

Discussion: Belmore stated there were conditions that the Director stated that should be part of the approval. He stated the conditions should also be that the applicant submits the Asbuilts to the satisfaction of the Director of Development Services or their designee rather than just the Department.

Horton and Rhodes supported the amendment to the motion to include the following conditions of approval:

1. CONDITIONS TO BE COMPLETED PRIOR TO THE START OF SITE WORK:
 - a. Erosion control shall be properly installed on site PRIOR to any construction. Erosion control shall be properly maintained throughout construction; any breaks or breeches shall be repaired within 48 hours of the storm event.

- b. Wetland buffer areas shall not be impacted by any construction activities (other than those impacts permitted under the CUP and DES wetlands permit). Wetland buffers shall be marked with orange snow fence prior to any onsite activity, and such markers shall be maintained throughout construction.

2. AS-BUILT PLANS.

- a. Within thirty days of the completion of the project and prior to the issuance of an occupancy permit, an electronic As-Built Plan of the proposed development with details acceptable to the Director of Development Services (or designee) shall be provided in either .pdf and paper copy. Once approved by the Director of Development Services (or designee) the applicant shall submit final Asbuilts in both paper copy and on CD. This plan must be in a dwg or dxf file format and in NAD 1983 State Plane New Hampshire FIPS 2800 Feet coordinates;

DURATION OF APPROVAL: All conditional approvals shall be valid for a period of 120 days in which time all precedent conditions must be met or the approval shall be null and void. The applicant may request an extension no later than 14 days prior to expiration.

EXTENSIONS: All requests for extension must be submitted in writing to the Department of Development Services no later 14 days prior to expiration with the appropriate fees. Failure to comply with the deadline dates without submission of a written request for extension will result in the approval being null and void.

APPEAL PROCESS: Pursuant to RSA 677:15, an aggrieved party may appeal this decision to the Strafford County Superior Court within 30 days of the date the Board voted to approve or disapprove the application, or to the ZBA pursuant to RSA 676:5, III within 30 days of the date the Board made its decision.

The MOTION CARRIES by a 9-0 roll call vote.

A) Compliance Hearing: Westbrook Manufactured Home Park LLC, 220 Route 108, in the Commercial/Industrial (CI) District Assessor's Map 61 Lot 10

Saunders stated this site is a former manufactured housing park. She stated it was demolished years ago and has been vacant for many years. She stated because it is vacant many people use it to park or as a cut through from Route 108 to Blackwater Road. She stated she has reached out to the property owner on many occasions to have them address the misuse. She noted that Cumberland Farms was recently before the Board for a compliance hearing regarding the degradation of pavement along Blackwater Road. They are paying for repaving of Blackwater Road and extension of the shoulder to be installed and that will be completed soon. She stated that she has relayed to this to the property owner that they need to prohibit travel through the vacant lot, to prevent future degradation to the pavement that is being fixed.

Saunders stated the property owner is not in attendance but she is looking for direction from the Board for how they want staff to move forward. She stated the property owner has received many courtesy notices.

Horton asked what kind of feedback staff has received from the property owner.

Saunders stated the property owner has told staff that he would comply and block off the entrances to the lot. She stated they have given him a deadline to comply and that has come and gone without the property owner coming into compliance. She stated the property owner has claimed there were

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financial issues and staff discussed with him various ways to achieve the same goal. She stated the property owner has not followed through on blocking the property to prevent misuse from cars.

Witham stated he appreciates that this topic has come before the Board as a compliance hearing. He stated Cumberland Farms has taken ownership of the road degradation and the repairs are being made to the roadway. He stated during that compliance hearing the traffic that uses this property as a cut through was brought up. He stated the curb cuts are not well defined and there are no crosswalks to Cumberland Farms for people to be crossing the road safely if they park on this property. He stated there is no lighting and mud is tracked into the roadways. He stated there are a number of different options that would meet the goal to prevent cut through traffic and non-authorized parking. He stated he thinks the work should be completed prior to the paving along Blackwater to close off this property.

Belmore stated he thinks the property owner needs to submit a plan to alleviate the issues. He stated if they choose to do just barriers there needs to be other deterrents, such as signs, so that people do not just drive around the barriers. He stated the property owner needs to do his part to inform the public that parking or cutting through the property is not allowed.

Witham stated he appreciates the notion to be reasonable with the property owner. He stated signage could be added to the property but does not think signage alone will fix the issue.

Richardson stated there is no lighting for this lot and he is hesitant to suggest a chain along the property because it may not be visible to drivers at night. He stated he supports requiring the property owner to submit a plan to prevent traffic flow through this lot.

Robidas asked if the property owner allows them could Public Works put boulders on site, in the effort to save the City road.

Belmore stated no because of the liability that would be attached to that. He stated that would not be something the City could do. He stated the property owner should come up with a solution that is found acceptable by either the City staff or Planning Board.

Rhodes stated he agrees with Belmore. He stated he believes a combination of signage and barriers would be the better option. He stated that the property owner should submit a plan that is acceptable to the City Staff. He stated there should be a physical barrier, acceptable to City Staff and at the property owner's expense.

MOTION: Witham stated, after review the Somersworth Planning Board finds 220 Route 108 not in compliance with the City's Zoning Ordinance and Site Plan approvals and request the applicant install a physical barrier to prevent parking and cut through traffic on the property to the satisfaction of the Director of Development Services or their designee.

The MOTION is SECONDED by Rhodes.

Discussion: Saunders stated she would advise that the solution proposed by the property owner be to the satisfaction of Public Works or City Engineer. She stated they will have a better handle on what would be an appropriate barrier.

Witham and Rhodes were fine with that amendment to make the staff person the City Engineer.

The MOTION CARRIES by an 8-1 roll call vote. (Belmore voting in the negative)

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2. WORKSHOP BUSINESS

A) Election of Officers

MOTION: Robidas moved to keep LeHoullier as the Planning Board Chair with Guptill as the Vice Chairman.

The MOTION is SECONDED by Witham.

Discussion: Robidas stated LeHoullier has done a great job as chairman.

Horton stated he agreed.

The MOTION CARRIES by an 8-0-1 roll call vote. (LeHoullier abstained)

Robidas requested that they re-open the compliance hearing to hear Belmore's concerns to why he voted in the negative.

MOTION: Robidas moved to reopen the compliance hearing for discussion.

The MOTION was SECONDED by Rhodes.

The MOTION CARRIES by a 9-0 roll call vote.

Compliance Hearing Continued

Belmore stated he felt they should make the motion more specific than just a physical barrier. He stated he wants to ensure the action is enforceable should this end up in court or in violation. He asked for clarification of flexibility for the City Engineer. He stated it should be acceptable to both the City and property owner.

Saunders suggested that they could add a purpose. She stated to have a barrier that prevents traffic from parking or traveling through the lot.

MOTION: Witham stated, after review the Somersworth Planning Board finds 220 Route 108 not in compliance with the City's Zoning Ordinance and Site Plan approvals and seek to limit cut through traffic and parking with installation of a physical barrier and signage to the satisfaction of the City Engineer.

The MOTION is SECONDED by Rhodes.

The MOTION CARRIES by a 9-0 roll call vote.

3. COMMUNICATIONS AND MISCELLANEOUS

Horton stated he was about to tour the Thomas Apartments at the site walk. He stated they have done a great job at that project. He asked for clarification on the status of the issues with the sidewalk.

Saunders stated the sidewalk was built about 3' closer to the roadway than it should be. She stated in result the delivery trucks are running into it. She stated the property owner is aware and will either move the sidewalk or install curbing.

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Horton stated Dairy Queen has reopened and has seen that it is very busy. He complimented Saunders' Form Based Code presentation. He thanked Saunders for all she has done for the community, the Board and him.

Rhodes thanked Saunders for that she has done for the City. He stated he would miss her and thanked her.

Witham stated the Thomas Apartments are done very well and the quality of the apartments is excellent. He stated the sidewalk is an issue, the tip down seems steep but that will be flushed out. He stated they have also moved the stop sign at the end of the road and it needs to be replaced correctly it is falling down.

Witham thanked the Director for all she has done for the City.

Robidas inquired the status of the old Getty Station downtown. He stated it has been empty for over a year and wondered if it has lost its grandfather status.

Saunders stated gas stations are only allowed in the Commercial Industrial district. She stated if it has been over a year they would have lost their grandfathered status.

Belmore stated he recommends that they send the courtesy letter to inform the property owner it can no longer be operated as a gas station.

MOTION: Robidas MOTION to ADJOURN.

Belmore SECONDS the motion.

The MOTION CARRIES by a 8-1 roll call vote at 7:39 PM. (Horton voting in the negative)

Respectfully Submitted,

Dana Crossley, Planning Secretary