

**SOMERSWORTH PLANNING BOARD
MINUTES OF MEETING
May 20, 2020**

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

MEMBERS ABSENT: Harold Guptill- Vice Chair & Keith Perkins – Alternate

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

The Meeting was called to order at 6:49 PM.

LeHoullier appointed Richardson as full voting members for the meeting.

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: Barry, Witham, Richardson, Robidas and Horton were in attendance remotely and were alone. Rhodes was in attendance remotely with Christina Johnson in the room. Belmore, LeHoullier, Director Saunders, Planning Secretary Crossley and Scott Smith Finance Director were present in Council Chambers of City Hall.

- 1) **Approval of the minutes of the meeting of February 19, 2020.**
Motion: Belmore MOVED to accept the minutes as presented.

Seconded by Barry.

The MOTION CARRIED by a 6-0-2 roll call vote. (Robidas and Horton abstained)

- 2) **COMMITTEE REPORTS**

Land Use Board Reports (ZBA, HDC, Conservation Commission, SRTC, Minor Field Reports):
Horton stated he appreciated seeing that Cumberland Farms is addressing the landscaping and replacing trees.

Belmore stated that the portion of Willand Pond Rd in front of the liquor store is being paved. He stated staff worked hard to get that accomplished with the property owner.

City Council Report: Witham stated the City Council has had 2 meetings via Zoom. He stated the 2021 Fiscal Year budget has been passed and will take effect July 1st. He stated they will be keeping an eye on the revenue and will take action to adjust the budget if necessary around October.

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Witham stated the City has taken a number of steps in response to COVID. He stated meetings are being held remotely, business is being handled through the drive-up at the City Clerk's office and other City Buildings are closed to the public.

Witham stated restaurants are able to start opening with outdoor seating. He stated staff has been working to accommodate those administrative approvals.

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

3) **OLD BUSINES**

A) **Thomas Gagnon, is seeking site plan approval to convert a duplex into a 3 unit multi-family on a property located at 10 Depot Street, in the Residential Multi-Family (R3) District, Assessor's Map 09 Lot 208, SITE#17-2019 CONTINUED PUBLIC HEARING**

Saunders stated the last meeting that this item was on the agenda was in February. She stated at that time it was noticed on the property card that there was a notation about a "ZBA for Triplex denied". Upon further research we found that in December 1988 Mr. Gagnon applied for a variance for an egress stairway from the third floor in the setback. This brought up the fact that the structure had 3 apt in it and only two on the City books.

She stated the variance application was tabled and in January of 1989 the applicant came back for the same variance request for the setback but also "for the legal conversion of the building into 3 units". At this meeting the ZBA denied the variance.

She stated the applicant appealed and was denied again. The Board's major concern was parking.

Saunders stated under today's zoning, 3-Family units are allowed in the R3 Zone so no variance is required for the 3 unit use. The only issue that may come up again is the egress stairway in the setback. However where there is only 13 feet on the side of the house to put the stairs, there is 35 feet to the rear of the house where this could be put, if needed. (30 foot setback required)

MOTION: Witham stated, I move to remove the request of Thomas Gagnon from the table for discussion.

The MOTION is SECONDED by Robidas

The MOTION CARRIES by a roll call vote of 8-0.

Thomas Gagnon, applicant and owner of 10 Depot Street was in attendance remotely to represent the application. Gagnon stated he purchased the property with his parents in the 80's. He stated at the time of purchase it had three units. He stated at that time the Zoning did not allow a multifamily. He stated today he is seeking to make the property a legal 3 unit multifamily. He stated he has intends to meet all conditions that have been discussed at the previous meeting.

LeHoullier opened the public hearing at 7:04PM.

Saunders stated no public comment was received via email, mail or phone.

LeHoullier closed the public comment at 7:05PM.

Board Discussion:

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Witham asked who makes the determination if an egress is required. Saunders stated the Building Inspector.

Witham stated if a fire escape is needed, the applicant could seek the variance at that time. Saunders stated yes.

Witham clarified that the applicant planned to pave the driveway. Saunders stated the concern of the Board was that it remained paved and well maintained.

Gagnon stated yes, it is currently paved and he plans to re-pave it.

Barry inquired if the parking plan as supplied is how parking exists today. Gagnon stated yes it has been existence as presented but there are no formal lines.

Barry asked if there have been any issues with parking the past. Gagnon stated no.

Barry stated at the last meeting there was discussion in regards to snow removal. He asked if there have been issues in the past with snow removal.

Gagnon stated no and has had times that they have needed to remove snow from the site.

Witham stated at the last meeting he had some apprehension about this request. He stated after consideration he feels it is a solid plan. He stated it has been existing as a 3 unit for a long time, though not legally, but there have been no issues arise. He stated it is as the applicant did a test run and now looking to improve upon that. He stated they are making it better.

Belmore stated at the last meeting there was a discussion about limiting the property to 6 parked cars. He requested that Saunders review the proposed conditions of approval.

Saunders reviewed the proposed conditions of approval.

Motion Witham, stated I move that the request of Thomas Gagnon to convert a duplex into a 3 unit multi-family at 10 Depot Street be APPROVED WITH THE FOLLOWING CONDITIONS:

1. PLAN REVISIONS: None recommended.

2. CONDITIONS THAT MUST BE MET PRIOR TO FINAL APPROVAL

- a. Construction Cost estimate for this project (water infrastructure improvements) shall be submitted to the Department of Development Services
- b. Please submit five paper copies of the full set of plans to the Office of Development Services for final endorsement.
- c. All Federal and State permits shall be in place before plan signing and recording, including NHDES Alteration of Terrain, and NHDES Shoreland Permit, NHDES Wetlands permit and NHDOT driveway permit.

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

- a. A preconstruction meeting is required prior to the start of water work. Please contact the Department of Development Services to schedule this at least 1 week prior to breaking ground;
- b. A performance surety, in an amount agreeable to the Department of Development Services, but no less than 25% of the cost of water line 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;

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- c. 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,
 - d. This property unit requires a new address. Please submit a request for a new unit address to the City Engineer. This request must occur prior to the issuance of a CO.
4. **CONDITIONS APPLICABLE DURING AND AFTER CONSTRUCTION:**
- a. All outdoor lighting (including security lights) shall be down lit and shielded so no direct light is visible from adjacent properties and roadways; and,
 - b. Six parking spaces are required for these three units. No more parking spaces may be added and those 6 parking spaces required must be paved in perpetuity. No parking on dirt areas or lawn is permitted.
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 Department of Development Services shall be provided in either .pdf and paper copy. Once approved by the Department of Development Services 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 20 days of the date the Board made its decision.

The MOTION is SECONDED by Robidas.

The MOTION CARRIES with a roll count vote 8-0.

B) Ratification of the Amended Notice of Decision for: Steven E. Brown, was seeking an After the Fact Conditional Use Permit to allow earthwork activities within the 100' wetland buffer on properties located at Commercial and Willand Drive, in the Commercial Industrial (C/I) District, Assessor's Map 43 Lots 1-G, 1-I & 1-K, CUP#05-2019

Saunders stated Brown's attorney reached out to let us know that the original decision we made denying Brown's CUP gave Brown 2 weeks to file a restoration plan in order to bring the site back into compliance, and that this was directly in conflict with the 30 day appeal period outlined in the RSA.

She stated the attorney let us know his client was entitled to appeal and asked that we reconsider the enforcement action deadline. After consultation with our attorney we agreed and reissued the Notice of Decision (NOD) giving 30 days to submit a restoration plan.

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She stated this administrative decision needs to be ratified by the full Planning Board.

Motion: Robidas, stated I move to APPROVE the February 19, 2020 Decision to Deny the Conditional Use Permit for Steven E. Brown to allow for 30 days for the applicant to come into compliance by supplying a full restoration plan to the Department of Development Service.

The MOTION is SECONDED by Belmore.

Discussion: Witham clarified this action is just administrative. Saunders stated yes, but the Board does need to ratify the decision.

Horton asked if there has been any sort of restoration plan submitted by the applicant. Saunders stated no.

Belmore stated at this time it is under litigation. He stated apologizes for the snafu. He stated for any decision the Board should always give the applicant 30 days to comply to be in compliance with the State Statute that allows a 30 day appeal period. He stated it is just an administrative correction to be on record with agreeing with the 30 days. He stated the City Attorney is handling the matter and it is ongoing.

Rhodes stated for the record, the applicant has been out of compliance for that site for almost a year now.

Richardson asked when the notice will be issued after this vote. Saunders stated the corrective notice has already been issued. She stated the minutes reflecting the Board's decision will go into the record next. Rhodes stated for the record the applicant has been out of compliance for almost a year.

The MOTION CARRIES by an 8-0 roll call vote.

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

4) NEW BUSINESS

- A) **Green Mountain Power Corporation, is seeking a conditional use permit and site plan approval for complete replacement of four underground penstock pipe sections associated with the hydropower dam on a property located at 80 Olde Mill Road, in the R2A (Residential Duplex/A) District, Assessor's Map 02 Lot 02, CUP#01-2020 PUBLIC HEARING**

Saunders stated this is a Conditional Use Permit for impacts to the shoreland and the buffer to the River for an upgrade to the hydro-electric dam. She stated the impact to the site is small, in relation to other projects the Board sees. She stated it is a trenching impact to the existing parking lot. She stated as part of the project they will be interrupting 6 parking spaces the residents on site utilize. She stated there are 4 new spaces being proposed at the westerly side of the project. Saunders stated the property owner who runs the residential units has requested those 4 temporary parking spaces remain after this project is completed.

Saunders stated the temporary trenching to replace the penstock components will return to its original condition at completion. She stated the only long term change being proposed is the 4 new additional parking spaces.

Saunders stated the application has been reviewed by the Conservation Commission. The Conservation Commission recommended approval of the application with no conditions.

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Saunders reviewed the proposed conditions of approval. She stated the SRTC has required the following conditions:

- *Any temporary pedestrian ramps or temporary stairs require a building permit prior to construction.*

Saunders stated she recommends acceptance of the application.

MOTION: Witham stated I MOVE to accept the application as complete for discussion.

The MOTION is SECONDED by Barry.

The MOTION CARRIES by an 8-0 roll call vote.

John Tedesco, of Green Mountain Power Corporation was in attendance remotely to represent the application. Also in attendance remotely was **Justin Reed**, Project Manager from PC Construction and **Seth Bentley**, Plant Operator from Bancroft Construction.

Tedesco stated the purpose of this project is to replace the penstocks. He stated work will be beginning as soon as possible and hope to be complete before winter. He stated they will be doing plantings in the spring time of 2021. He stated they are grateful to work with the City and are glad to have the project moving forward.

LeHoullier opened the public hearing at 7:23PM.

Saunders stated no comments were received via email, phone or mail.

The public hearing was closed at 7:24 PM.

Board Discussion: Belmore stated during the SRTC meeting there was discussion about DES involvement. He asked if DES has required any specific conditions on this project or anything the City should be aware of that they are requiring.

Tedesco stated they have received a DES permit. He stated a standard condition of approval from DES is to be compliant with all local rules and regulations. He stated they will not be within the wetland buffer. He stated DES also requires that they receive FERC approval and they have received that as well. He stated one of the conditions is that they go through all of the correct channels for approval of the project.

Belmore stated he wanted to clarify and ensure that the new temporary parking would not interfere with the City's Wastewater Upgrade project.

Reed stated the new parking spaces are strictly located on Olde Mill Road. He stated the spots are located adjacent to the existing spots on site.

Robidas stated there had been discussion at the SRTC meeting in regards to potential equipment needed or training for trench rescue in case of an accident on site.

Tedesco stated their employees (and contracted employees) on site are all trained in confined space rescue. He stated any rescue would be able to be completed by workers on site. He stated they plan to have a pre-construction meeting with the Fire Department to review the rescue procedures. He stated they will provide the Fire Department with any updates necessary as well.

Barry stated he is thrilled to learn there is another hydro dam in Somersworth. He asked what methods they will be utilizing to dig up the penstock pipes, to re-lay and what efforts to ensure the contaminates do not get into the river.

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Reed stated it is his understanding this penstock was constructed in the late 80s and they do not anticipate any contaminated soils. He stated if they find contaminated soils they will need to remediate those accordingly.

Tedesco stated they work with a team of consultants that includes environmental consultants. He stated if they come across any suspicious matter they would bring in the consultant. He stated they have a close relationship with DES and would notify them as well.

Witham stated this project has so many layers of regulatory oversight. He stated there are so many eyes on this project it is more regulated than anything they would deal with. He stated he wants to ensure that a pre-construction meeting with City Staff is required. He stated the overlaps of the Wastewater Project should be closely reviewed.

Rhodes stated during the Conservation review there was discussion about the penstocks and when the coating of the penstocks happens. He stated they were informed the penstocks come to the site already coated. He stated the applicants also expressed at the Conservation meeting that they were willing to allow visitors on site. He stated he is glad to see non-fossil fuel projects before them.

Tedesco stated the COVID situation has not stopped construction at their other locations. He stated they enforce strict safety measures on site, but welcome visitors who comply with those measures.

Saunders reviewed the proposed conditions of approval.

Motion Belmore, stated I move that the request of Green Mountain Power Corporation for a conditional use permit and site plan approval to replace four underground penstock pipe sections associated with the hydropower dam be APPROVED WITH THE FOLLOWING CONDITIONS:

1. PLAN REVISIONS: None
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. Please submit four folded 24" x 36" paper copies of the full set of plans to the Office of Development Services for final endorsement.
 - c. FEDERAL AND STATE PERMITS - All Federal and State permits shall be in place before plan signing and recording, including NHDES Alteration of Terrain, and NHDES Shoreland Permit, and NHDES Wetlands permit.
3. CONDITIONS TO BE COMPLETED PRIOR TO THE START OF SITE WORK:
 - a. A preconstruction meeting is required prior to the start of work. At this meeting please submit a worker's safety plan to the fire department specific to confined space work. Please contact the Department of Development Services to schedule this at least 1 week prior to breaking ground;
 - b. Any temporary pedestrian ramps or temporary stairs require a building permit prior to construction.
 - c. An erosion control surety, in an amount agreeable to the Department of Development Services, typically 25% of the cost of site construction determined by the engineer's estimate of construction value, however in this case no less than \$50,000, 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;

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- d. 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.
4. CONDITIONS APPLICABLE DURING AND AFTER CONSTRUCTION:
- a. There shall be no wetlands degradation during construction;
 - b. All work shall be completed at as low flow conditions as possible with an eye to extreme weather that may cause River levels to rise and impact the work zone.
 - 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 Department of Development Services shall be provided in either .pdf and paper copy. Once approved by the Department of Development Services 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;

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The MOTION is SECONDED by Rhodes.

The MOTION CARRIES by an 8-0 roll call vote.

B) Form Based Codes Update

Saunders stated the Board has received a copy of the updated Form Based Codes (FBC). She reviewed the details of the 5 areas. She stated the intent of FBC is to address newly constructed structures and their relationship to the existing neighborhoods. She stated the first page for each area speaks to the purpose of the district and the second page addresses the standards. Saunders stated the FBC has been reviewed by the Economic Development Committee. She stated they have referred the document to City Council for review and adoption.

There was a brief discussion of the River and Riverwalk and how it ties into the Mill Yard, area 5.

Rhodes stated he feels the FBC will encourage commercial development. He stated he is happy to see the encouragement for public art.

Witham stated he believes this is the change that downtown has needed for a long time. He stated it will allow more for more flexibility.

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Robidas thanked the Director for her hard work on the FBC.

C) Any other new business

Saunders stated that Michael Bobinsky's term as an SRPC commissioner has expired. She stated he has done a great job as a commissioner. She stated the Planning Board makes a recommendation to Council who makes the decision.

MOTION: Witham stated, I move to recommend to City Council the re-appointment of Michael Bobinsky as an SRPC Commissioner.

The MOTION is SECONDED by Horton.

The MOTION CARRIES by an 8-0 roll call vote.

5) WORKSHOP BUSINESS

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

No other workshop business

6) COMMUNICATIONS AND MISCELLANEOUS

Saunders stated she received no communications for this meeting via mail, email or phone.

Witham stated the Thomas Apartments are going up and encouraged Board members to take a drive by. He stated it seems much larger in real life than on the plans. He stated it does look nice. He stated one of the conditions of approval was that they would construct a sidewalk. It has been noted that the sidewalk was not constructed to City standards. He stated the City Engineer has been working with the developer. He asked if there is an update on that project.

Horton stated he has noticed that sidewalk as well. He stated he has been enjoying the City Council meetings lately. He stated he wanted to thank EMS, Fire and Medical workers for their hard work and what they do for the community.

Saunders stated the sidewalk along Tri City Road was improperly constructed. She stated the developer has recognized that and will be reconstructing.

MOTION: Belmore MOTION to ADJOURN.

Robidas SECONDS the motion.

The motion carries by an 8-0 roll call vote at 7:59PM.

Respectfully Submitted,

Dana Crossley, Planning Secretary