

TOWN OF CHESTERFIELD, NH
PLANNING BOARD
MINUTES

MONDAY, JULY 6, 2009

Present: Susan Lawson-Kelleher (Chair), Stephen Pro (Vice-Chair), Jon McKeon (Selectmen's Representative), Bob Del Sesto, Tom North, Helga Frohn, and Brad Chesley (alternate).

Absent: Elaine Levlocke (Secretary)

Call to Order

Lawson-Kelleher called the meeting to order at 7:17 p.m.

Seating of Alternates

Chesley was seated for Levlocke.

Minutes –

- June 15, 2009

Frohn moved to approve the minutes as amended. Chesley seconded and the motion carried (Del Sesto – Yes, Chesley – Yes, McKeon – Yes, Frohn – Yes, Pro- Yes, and Lawson-Kelleher – Yes; North abstained).

Appointments

- **Pierre and Tilia Saba/Riverside Hotel** – Continuation of the public hearing for a Site Development Review of property located at Route 9 and Mountain Road in West Chesterfield (Map 14C, Lot B1) in the Commercial/Industrial zone. Applicant wishes to modify previously approved Major Site Development Plan.

Del Sesto moved to reopen the public hearing. Frohn seconded and the motion carried unanimously.

Mike Bentley presented new plans with a current stamp, current revision block, owner certification and signature block. Bentley reviewed items that had presented no major issues to his recollection:

- removal of the old fence (gone);
- flag pole – spec sheet provided, height believed to be 30’;
- underground propane tanks – shown on revised plans;
- dumpster locations – 2 on originally approved plans will be removed, to be replaced by dumpster up against building;
- egress light to deck;
- wall-mounted egress light

Bentley reviewed the items he believed to be the biggest points of contention, beginning with the removal of the junipers. The applicant's proposal includes the planting a line of 58 five-

to eight-foot tall arborvitaes inside of the fence along the road and proposes a new fence outside of the tree-line. The fence would be the same fence proposed earlier in the application process, in black. A pamphlet was provided and the fence circled to indicate what the applicant proposes. Due to concerns raised by David Belanger, abutter, the applicants propose to end the fence 12 feet from the guardrail. The last 12 feet of the fence will be a hinge gate consisting of two 6-foot swinging panels of consistent fencing. The applicant provided a photo of the view from this location for the file.

The applicant would like the Board to stop at the site to look at light #2 that has been modified with an aluminum shield constructed and installed inside of the lens to prevent light from shining outside of the lens. They have no photo to demonstrate the illumination available this evening.

The applicant proposed 3 possible designs for the light at the top of the piers at the end of the fence. Spec sheets of the three designs were submitted to the Board and numbered. The applicant favors the lights labeled "#1" ("St. Claireliter") and feels they are the most aesthetically pleasing. The revised plans indicate that light choices will be "100% downcast lighting". The applicant is willing to obtain a sample light and have it installed and working for the Board to review prior to approval. The applicant feels that lights would be installed as a part of the fence.

The plan also shows 2 in-the-ground electrical outlets; Bentley stated that he was told there are more than two on-site. These outlets would provide electricity only on a temporary basis as needed for outdoor gatherings requiring electrical service.

Bentley stated that he felt that it would be an unreasonable and unnecessary financial burden if the Board were to require them to start from scratch rather than to consider everything they are proposing in this one collective request for amended site plan approval. Bentley would request that the applicant only be required to provide updated sheets of the entire site plan that have changes to the originally approved plans to replace outdated sheets in the file. There was some contention and a brief discussion of whether or not this could be done. There are multiple plan sets distributed to many locations and each application is a separate matter with a separate file. The discussion was tabled for now.

Belanger requested permission to submit a letter from his attorney, Gary Kinyon, of Bradley & Faulkner PC, dated July 6, 2009 as a "counter-proposal" outlining several requests on behalf of Mr. Belanger. Belanger stated that he does not feel it is appropriate to arrange the wording in a proposed amendment to the site plan to fix the lighting problem. He feels that the applicant is conveniently incorporating lights into fencing to get something that was in violation passed and that it is way past the side setback. It was noted that plants, trees and fences are excluded from setback regulations. Beyond this, Belanger does not believe that 6- to 8-foot arborvitaes will immediately remedy the screening situation. He stated that when the Board was in his home the evening of the site visit they could see that even his 12-foot trees do not block the lighting, etc. He is also concerned that his view would be blocked if the fence extends beyond 60 feet and that allowing that would not be fair.

Belanger questioned the notation of two scotch pines called for on the landscaping plan. The applicant stated that these were to be deleted from the plan.

Belanger has consulted with Fran Macri at Maple Hill Nursery regarding the lighting. His suggestion is that two layers of arborvitae would be needed, 10- to 12-foot in height; the proposal is to plant the trees on Belanger's property. Belanger provided a sketch, consisting of a marked up plan. Belanger stated that he would need to dig up his pavement. A height of 18-feet would be needed to block the view. If Saba would be willing to pay for having the trees planted on Belanger's property, he would prepare the driveway. The trees grow well on his property. He has fortified his own trees by removing 1/3 of the top of the trees. They grow back fuller and stronger. The Planning Board is unable to require the applicant to pay to have trees planted on an abutter's property.

Belanger also questioned continued vehicular traffic on the footpath on the site and provided a photograph of a motor vehicle traveling on the path on the previous Thursday. The path was supposed to be utilized by non-vehicular traffic only and the applicant was to post a sign indicating such. No sign has been posted. The Board questioned Saba on this point. He now wishes to amend the Use Intensity and seeks Board approval to continue limited vehicular traffic to allow for linen service. Linen delivery takes approximately 10 minutes twice a week and his maintenance vehicles utilize it 2-3 times per week. He states it is a very limited use and he is unable to enforce the restriction of vehicular traffic. Although there is another entrance at the north end of the building that could be used, this is the most direct route for linen delivery and pick up and poses less inconvenience and interruption to guests.

In regards to a light high on the south face of the building that was not working the night of the site visit; Belanger did not believe that it had been repaired to date, and does not wish for it to be restored. The applicant stated that the light has been fixed and is working for the Board to view.

Belanger noted that the dumpsters have been moved; he does not oppose the location, but he would like to see them used for both the motel and the store, and/or he would like something in writing to enforce as a restriction that they can be emptied no earlier than 9:00 a.m. He states that when they are emptied it is very loud and it has been done as early as 6:00 a.m. Saba does not believe the removal company empties that early in the morning. The Board noted that the store is a separate site plan from this matter.

Belanger also raised concern regarding the electrical receptacles in the ground. The Board received absolute confirmation that this was not for permanent lighting from Bentley; it would only be used for occasional outdoor gatherings. Del Sesto noted that the power receptacles could not only power lights, but stereo equipment and all sorts of other electrical equipment. Bentley affirmed that they had the potential for such; however, he pointed out that the plans include notes indicating that they were for "temporary outdoor lighting". The Board suggested including a statement addressing the extent of their use in the revised Use Intensity Statement.

Belanger seeks no final answer tonight. He would like the opportunity to review and assess the information presented this evening and information that he has requested of Bentley that he has not yet received before the Board concludes the matter.

Bentley responded to a reference in Kinyon's letter regarding light fixtures (category #2) with tubes. He noted that there are 4-6 lights that still do not have the tubes; they are on order so he feels that will not be an issue. He acknowledged also that although he

understands Mr. Belanger would not like to see the light fixture high on the south face of the building functioning, they are a requirement; the applicant feels the light is necessary.

The Board reviewed items that they concurred are not an issue at this time:

- Retaining Wall (installed)
- Fencing, itself
- Flag Pole
- Underground Propane
- Upper Fence
- Egress lighting on tubes will be okay (tubes on order)

The Board was at odds as to whether they needed to require dimensions regarding the location of the revised proposed dumpster location, or the scaled drawing would suffice. The Board took a vote and the results were 4 were in favor of requiring dimensions for the size of pad and the location to be defined (Del Sesto, McKeon, Chesley, Frohn) and 3 were in favor of requiring no more than the scaled drawing (North, Pro, Lawson-Kelleher).

The Board will require dimensions to be included for the size of the pad and the revised proposed location of the dumpsters.

The question of dumpsters being combined for use by liquor store and the hotel was called into question. There are currently 2 in use for each entity; the proposal calls for a total of 2 dumpsters serving both businesses. It calls into question the same matter as the possibility of combining the grocery store with the hotel. The Board will discuss this at a later date.

The Board addressed Kinyon's request for inspection of lights for compliance by a lighting engineer. It was the Board's discretion and the Board's decision and terminology of what would be required. The Board visited the site, inspected the fixtures and found the alteration to the fixtures to be acceptable. The Board voted unanimously not to contact a lighting engineer for inspection.

The location of all electrical conduit and T's are to be shown on the plans and the use of the electrical outlets is to be included in the Use Intensity Statement.

The Board feels that arborvitaes will be a suitable replacement for the junipers that would probably not have functioned well for the intended purpose in any event, and that if they start out at 5- to 6-feet in height they will achieve a height of 12-feet in approximately 3 years.

Andrew Auger asked that the Board consider that the arborvitaes will grow outward and if they are allowed to cast shade on the roadside the road will require more salt and sand for increased icy conditions. The Board should consider how far from the road they will be allowed.

Pro noted that this must be looked at as a request for an amended site plan. If the Board is comfortable with the plan they should approve it; if they are not comfortable with the plan they should deny or seek reparations. Planning Boards are not punishers; they must approve an application if it meets ordinances and fits the character. Everywhere he sees it looks nice and he sympathizes with the abutter, but it fits.

Belanger is requesting the trees be planted to block the site from his view, but is also requesting a decrease in the number of trees so as not to impede his view.

Belanger stated that he has consistently attended public hearings and has consistently asked the Board to consider only three things: noise, lights and river view. He felt his concerns had been met, but called to complain when requirements were not being met. He called when he was woken up at 6:30 a.m. and he can't get Code Enforcement to do anything about the lighting, which he states is in violation. He feels his plan will be more cost effective, would mix into the neighborhood and would block his view of the hotel lights. He feels he deserves this. He is okay with the fence being continued to the gate but he feels he needs the protection of the trees Fran suggested.

It was noted that in New Hampshire, views do not have to be maintained so Belanger's argument of entitlement to view has no legal standing. The Board can direct Saba to plant to provide appropriate screening, but cannot tell him where he must stop. The Board also cannot ask Saba to plant trees on the abutting property. The best the Board can do is require Saba to plant trees they believe to be appropriate at an acceptable height. They will also address a requirement that the lights be at an acceptable height.

Pro moved that a row of 58 arborvitaes, 6- to 8-foot in height, be planted as proposed on the plan. Chesley seconded the motion.

There was a brief discussion of height and distances, ability to thrive and susceptibility to shock.

Pro withdrew his motion and Chesley withdrew the second.

Pro moved that beginning at the fence pier, 30 - 58 arborvitaes, 6- to 8-feet in height, 2-foot on center, be planted. North seconded the motion.

Del Sesto moved to amend the motion to increase the height of the arborvitaes to 8- to 10-feet. Frohn seconded the motion. The motion to amend carried by majority decision (Del Sesto – Yes, North – Yes, McKeon - Yes, Chesley – Yes, Frohn – Yes, Pro – No, Lawson-Kelleher – No).

The amended motion that beginning at the fence pier, 30 - 58 arborvitaes, 8- to 10-feet in height, 2-foot on center, be planted carried by majority decision (Del Sesto – Yes, North – Yes, McKeon - Yes, Chesley – Yes, Frohn – Yes, Pro – No, Lawson-Kelleher – Yes).

Del Sesto moved that the four exterior parking lights be no more than 15-feet from base to top and the sono tube be no more than 2-inches above ground level. Frohn seconded the motion. The motion carried by majority decision (Del Sesto – Yes, North – Yes, McKeon - Yes, Chesley – Yes, Frohn – Yes, Pro – No, Lawson-Kelleher – No).

Pro moved to approve the fence as presented on plans, inclusive of stone pillar as specified on Home Depot cut sheet folder (The Brilliance Panel and Gate, black) with gate at end with two 6-foot swings. The motion carried by majority decision (Del Sesto – Yes, North – Yes, McKeon - No, Chesley – Yes, Frohn – Yes, Pro – Yes, Lawson-Kelleher – Yes).

The Board remained undecided as to whether the fence should be looked upon as a structure once lighting was added. It was argued that this is becoming a common addition to fencing and the lighting would definitely serve a purpose; it would help people to find the entrance to the motel, which should stop people from passing it by and turning around – which is something the abutter has complained of. Del Sesto felt it was worth looking at and the Board should allow Saba to obtain and install a sample for the Board to view.

In regards to the previously approved bollard, Belanger did not want to see it approved. To his last knowledge it had not been working. He would like to view it now that it is reported to be functioning as well.

Regarding the service path, the Board felt it was a reasonable use on commercial property but may like to restrict the hours of operation. Belanger also complains of noise due to backup alarms on the delivery/maintenance vehicles. Chesley stated that he understands this may be a nuisance for the abutter, but it may be necessary for safety reasons. Belanger noted that there is a third entrance that could be used. This location appears to be the most functional and least obtrusive for patrons.

It was noted that the applicant had stated that this was not being used as a service entrance with vehicular traffic after it was indeed being used as such. The Board would like to move forward and work with the applicant on this and all matters related to the application. There may have been a breakdown in communications in the past but the Board now believes that it has made it quite clear, all uses and functions of the facility must be carried out as represented in the approved site plan; Saba must adhere to this when moving forward. There shall be no changes to or deviation from any part of the approved site plan without prior approval of the Planning Board.

Bentley referred to Belanger's reference to his three complaints – river view, lights and noise; except for the reference to the backup alarm from the tractor, it seems to be the best demonstration that the new hotel project has improved all of the problems with the former facility and clientele. There is less noise, less noise complaints, police involvement, etc. Overall it is a grand improvement and they are striving to right the ship. He submits it would be foolish to think that Pierre would spend the millions of dollars and all this time and his intent to be to sneak things by the Planning Board.

The Board recognized that the project as a whole is an improvement for the Town. The Board asked that Saba be very clear in his Use Intensity Statement. Indicate the hours, all vehicular traffic and all duties that the service entrance will be utilized for (linen service and regular scheduled maintenance between the hours of __:__ to __:__), and specify any exceptions and emergency situations that would require additional, unforeseen use. Del Sesto stated that any use must minimally meet code for service entrance. The Board's consensus in general is that the use as described would be agreeable if included as such in the revised Use Intensity Statement.

Bentley stated that the applicant requests a waiver to extend the 65-day clock for approval and submitted a written extension through August 1, 2009.

Pro moved to continue the public hearing to July 20, 2009 at 7:30 p.m. at the Town Hall. Frohn seconded and the motion carried unanimously.

The matter will be placed after previously scheduled appointments (Browne Limited Partnership and new applications). In the interim, the applicant shall obtain a sample of the favored lighting (#1), install that lighting and the lights that are currently backordered. Once all items are in working order for the Board to view, the applicant will notify the Planning Board and the Secretary will notify members that individual visits to the site can be made to view the site prior to the final hearing. No quorum may take place onsite. If the final arrangements are not in order in time to allow Board members to view the site, a second waiver will be required to extend the time clock and the public hearing will need to be continued into September or whenever Saba will have returned and is prepared for a final hearing on the matter.

- **William & Robin Penney/Truck Camper Warehouse and Bell Engineering –** Continuation of the public hearing for a proposed Major Site Plan Review of approximately 2.6 acres located on Lyman Way (Map 14, Lot A11.4) in the Commercial/Industrial zone.

Frohn moved to reopen the public hearing. Chesley seconded and the motion carried unanimously.

Pro recused himself and excused himself from the meeting.

The Board reviewed the information they were looking for from the last meeting.

Bell presented the revised plans.

- Typographical Correction – “Warehouse”:

The spelling is reported to have been corrected. This should be reviewed thoroughly.

- Updated drainage calculations (surface water drainage management plan from previous plan, plus what is added to be incorporated) :

This remains to be addressed sufficiently; the Board expects numbers for actual drainage calculation and a statement of sufficiency.

- Information/Plans for the storm water detention pond:

Bell submitted a report to address that the previously approved plan allowed for an additional 2 acres of impervious surface. Bell did not run exact figures himself. The Board requires this information; if documents will be submitted with another engineer’s stamp, the applicant must furnish proof of notice to the engineer that the documents will be included in this application.

- Drainage Easement:

Must be legally executed.

- Sheet 4 – Drainage to include high point/low point:

Must be addressed.

- Dumpster fencing detail to be added:

Must be consistent information on all pages (to be 6-foot stockade fencing).

- Parking space dimensions and delineation (to west); :

Must be revised; handicapped parking not in compliance as submitted.

- Note in Use Intensity Statement that there will be no accommodations for overnight camping and no associated septic waste disposal/dumping until approved by the Planning Board:

Completed.

- Sheet 3 – Layout to include distances from building to lot line:

Completed.

- Velocity Reducer to be incorporated and shown:

Completed.

- Use Intensity Statement to include percentage of parking to be used for outside display and storage (and delineation of area designated for such) :

Completed.

- Parking note to say, “Storage/Display”:

Completed.

- One legend keyed for all plans (suggested presentation on Page 1) :

There is not one keyed legend for all plans on page one, but the keyed legends have been sufficiently updated.

Frohn moved to continue the public hearing to July 20, 2009 at 7:30 p.m. at the Town Hall. Chesley seconded and the motion carried unanimously.

The matter will be placed first on the agenda.

Items for Discussion

- **NHDES Minimum Impact Expedited Application - Evangelical Free Church of America Camp Spofford - Route 9A:** Temporary impact to 18LF (100SF) of seasonal stream for installation of utility crossing – narrative included.
- **Evangelical Free Church of America Camp Spofford -** Conditionally approved application for a Site Development Review of property known as Camp Spofford to replace a previously existing structure that was destroyed by fire. The Board awaits final submissions from the applicant to be reviewed by the Board prior to the appointment of an independent Life Safety Reviewer and a determination of final approval. The applicant has not been in contact with the Planning Board.

Items for Information

- **LGC Life Resources – Member Assistance Program:** Available to Board members
- **LGC 68th Annual Conference – “Local Government: Rising to the Challenge” –** November 18-20, 2009 in Manchester (“mark your calendars”).
- **LGC – 22nd Annual Municipal Volunteer Awards - flyer**

There was no other business and no signatures this evening.

Adjournment

Frohn moved to adjourn at 12:36 a.m., July 7, 2009. Chesley seconded the motion, which carried unanimously.

Respectfully Submitted by:

Patricia L. Blum

Approved August 3, 2009:

//s// Susan Lawson-Kelleher
Susan Lawson-Kelleher, Chairman

August 11, 2009