

PLANNING BOARD
Selectman's Meeting Room
RINDGE, NEW HAMPSHIRE
September 3, 2013

DATE: September 3, 2013 TYPE: Public Meeting APPROVED: 9-17-2013

TIME: 7:00 pm

CALL TO ORDER:

Planning Board Members: Chairman Kirk Stenersen, Hank Whitney, Phil Simeone, Bruce Donati, Charlie Eicher, Vice Chair Kim McCummings (7:10 pm)

Planning Board Alternates: Burt Goodrich, Holly Koski

EX OFFICIO: Roberta Oeser

PLANNING DIRECTOR:

PLANNING SECRETARY: Susan Hoyland

APPOINTMENT OF ALTERNATES: Burt Goodrich for Kim McCummings

OTHERS PRESENT Carlotta Lilback Pini, Peter Imse, John Kucich, Matthew Snyder, Heather Monticup, Ashley Saari

1. ANNOUNCEMENTS

2. APPROVAL OF MINUTES

- a. August 20, 2013 Public Session

MOTION: Roberta Oeser moved to approve the minutes of August 20, 2013. Phil Simeone seconded the motion. **Vote: 6-0-0**

3. OLD BUSINESS

- a. Public Hearing Continued from August 20, 2013: CONSIDERATION OF** an application for a Minor Subdivision submitted by Kohlmorgen Housing -2 LLC. The property is located at Tax Map 8, Lot 7-4 Wallace Road. The applicant is seeking approval for a two lot subdivision. Paul Grasewicz of GRAZ Engineering will be presenting this proposed plan.

The applicant has requested that this hearing be continued. Chairman Stenersen asked if any abutters were present. There were none.

MOTION: Phil Simeone moved to continue this hearing until October 1, 2013 at 7:00 PM. Roberta Oeser seconded the motion. **Vote: 6-0-0**

Chairman Stenersen appointed Burt Goodrich to sit for Kim McCummings who will be arriving late.

b. Public Hearing Continued from August 6, 2013: CONSIDERATION OF an application for a Major Site Plan Review submitted by Wal-Mart Real Estate Business Trust c/o Bohler Engineering. The property is located at Tax Map 6, Lot 98 at 750 US Route 202. The applicant is seeking approval for an expansion of an existing retail store in the Business/Light Industry District.

Chairman Stenersen invited Peter Imse to address the Board on behalf of the Wal-Mart application.

Peter Imse said that this evening, the Wal-Mart team would be addressing issues that were raised during the last public hearing. Those issues included:

- Sign update
- Abutter boundary line
- Traffic engineering report
- Access and mitigation areas
- Outdoor Sales

Sign update:

Peter Imse said that for whatever reason, the Town has been unable to find variances that were assumed to have been granted for signs on the Wal-Mart store. He was told by the Town to assume that the missing variance encompassed the existing signs.

Roberta Oeser said that when Wal-Mart resurfaced the building, a new sign was put up without going through the proper process. Roberta Oeser said that Wal-Mart may repair and replace exactly what is there, but in order to be in compliance, if they want to do a new internally lit sign, they will need to apply for a variance. Internally lit signs were allowed until 2007 when the sign ordinance was changed.

Peter Imse said that he is not familiar with what took place in the past, and will go in whatever direction the Board is willing to provide.

Kim McCummings arrived at 7:10pm. Burt Goodrich returned to the audience and Kim McCummings took her place at the table.

Chairman Stenersen asked when the Wal-Mart store was built. The answer was 1993 or 1994. Mr. Stenersen said that the sign ordinance had a complete facelift in 2007.

Phil Simeone asked if there were any major changes planned for the signs. Peter Imse said that they were looking into what would be allowed and would return at a later time with more detail. He said that at this time there were two signs on the front of the building, the Wal-Mart sign and a Subway sign. He said that federal regulations would require a Pharmacy sign as well and that the plans also show an Outdoor Living sign. He said he needs more time to figure out how the federal law will work within the Town of Rindge requirements.

Roberta Oeser said that if the signs are part of the site plan and are in compliance with regulations, then only a permit would be needed. She said that she would like to see the sign lowered.

Peter Imse said that they would prepare a detailed sign package for all to see.

Chairman Stenersen said that the site plan could not be approved until the Board knows what changes to signs will be made.

Abutter boundary line

John Kucich said that during the site plan presentation at the last meeting, a question came before the board about a boundary line concern from Rob Anderson, abutting property owner. Mr. Kucich said that he had communicated with their surveyor who is very confident that what is shown on their plans is correct. Mr. John Kucich said that they would be happy to discuss this with the abutter (who was not present this evening.)

Chairman Stenersen said that he had looked into the deed and was not sure what the abutter was referring to. Bruce Donati said that he had done some research himself. Bruce Donati said that he had found only one plan for a Peter J. Anderson for a very large parcel of land west of the tracks. Bruce Donati said he thinks that plan agrees with what is being said this evening.

Chairman Stenersen said that the Board can only go with what is being submitted. If there is a boundary line dispute, it would be a private matter between the parties.

Traffic engineering report

Heather Monticup of Greenman-Pedersen, Inc. said that a traffic study had been prepared in 2011. After reviewing that study, it was determined that the changes since that study was made were not significant enough to require a new study. A traffic update letter was included in the site plan review application package. Heather said that she did check in to the Tractor Supply Store and Auto Zone and that these were in fact in place when the 2011 study was done.

Heather Monticup said that an issue with the merge area on 202 northbound was addressed by the NH DOT when repaving was completed. She said there are no outstanding issues with the NH DOT and they are awaiting an amended driveway permit.

Kim McCummings said that when you are leaving Wal-Mart and travelling north on Route 202, there used to be a sign that is gone. Heather Monticup said that the sign will be moved back. Kim McCummings also said that the curbing had been painted yellow so that it was more visible to the public.

Outdoor Sales

A discussion took place about the Outdoor Sales. Some of the issues that were discussed included:

- What types of items are being stored for sale outside? (Peter Imse will provide a list of items for the next meeting)
- How many parking spaces are being used for outdoor sales items (Peter Imse will provide this answer at the next meeting)
- Will the outdoor sales continue to be a 'moving target' or will it be contained in one specified area
- Town of Rindge regulations do not allow for outdoor sales
- Walmart outdoor sales typically being used for Garden Center items and not in the winter months.
- The Board's request that fertilizers not be stored outside, but be under cover.
- A truck without wheels presently behind the building
- The need that a list of outdoor sales items and their location be part of this plan so that it does not become a Code Enforcement issue.

Hannaford Bros. Co. concerns:

David W. Rayment, Esquire, of Cleveland, Waters and Bass, P.A. and Robert Duval of TF Moran addressed the board on behalf of Hannaford Bros. Co.

Mr. Rayment provided board members with a letter outlining concerns and objections which included:

- Waiver of Section VI(B)(5) of the Site Plan Regulations
- Status of Conditional Approval without design of wastewater treatment plant
- Waiver of Section VII(11) Impervious Cover Requirement
- The Wetlands Conservation District Encroachment

A copy of the letter from Cleveland, Waters and Bass, P.A. is attached herein.

Robert Duval said that he had taken a look at the traffic report and the storm water figures and had concerns which included:

Storm water

- The addition of an acre of impervious surface and where water would go as a result of that.
- His preliminary assessment that this storm water system could take up to 9 days to drain.
- A request that the applicant provide some actual infiltration tests to verify a 72 hour depletion rate.
- A concern that storm water runoff will affect Hannaford property adversely

- The lack of clean out manholes
- The importance of maintenance of these systems and a request that a maintenance plan be part of this approval

Traffic

Mr. Duval disputed the accuracy of the traffic numbers being provided.

Rebuttal to Mr. Duval

Roberta Oeser said this board has no intention of approving the site plan until such time as the wastewater treatment plan is provided. She said the plan is part of the entire package and is merely not being presented at this point in time.

Peter Imse said that as he is hearing some of these issues for the first time tonight, he would like to address the concerns raised by Atty. Rayment and Mr. Duval at the next meeting. He said that as far as the design of the system is concerned, there will be a compliance hearing and there is not a problem with that. The plans will be filed.

Heather Monticup addressed some of Mr. Duval's concerns about traffic numbers. She said that she had doubled those figures for trip generation which gives a 20% increase to what IPE says. These will not impact the signal or the Hannaford driveway.

Burt Goodrich asked if Heather Monticup could provide board members with a summary of her report with some graphics which he felt would be most helpful for a better understanding of this information.

Access and mitigation areas

Chairman Stenersen said that he is still of the opinion that what is considered to be an access way and the productive use of the land is in the eye of the beholder. He said his brother would love to hunt on that land and have nothing else on it. We all have a different interpretation of what productive use is.

Chairman Stenersen said that he had pulled the plans from 1991 and there was a mitigation plan submitted. This plan shows the outline of the edge of the proposed mitigation area as well as a proposed detention pond and another proposed detention pond. Mr. Stenersen said, from what he could see, this is not part of the mitigation area but a created structure. He said he may be missing something, but if he is not, then the encroachment issue would be a moot point. The detention ponds are not part of the mitigation and would not be considered part of the wetlands buffer.

Phil Simeone volunteered to check the minutes from 1991 and report back to the Board.

Mr. Imse said that they would check this as well, and if found to be correct, then the encroachment issue would go away. Chairman Stenersen said the plans are in the office and that they are more than welcome to come to the office and look through them.

Roberta Oeser said that the impervious area requirement, which is part of a regulation, was not in effect when Wal-Mart was built. She said that a zoning ordinance, adopted after the fact, will not apply, therefore a regulation adopted after the fact should not apply either. Surely, the strength of a regulation does not supersede that of an ordinance.

She read from the State statute, RSA 674.19

“674:19: Applicability of Zoning Ordinance

“A zoning ordinance adopted under RSA 674:16 shall not apply to existing structures or to the existing use of any building. It shall apply to any alteration of a building for use for a purpose or in a manner which is substantially different from the use to which it was put before alteration.”

Roberta Oeser said that as Wal-Mart is a retail establishment now and will continue to be a retail establishment, then, in her opinion, the impervious regulation, which was not in force when this store was built, should not be required.

Peter Imse asked for a list of what would be required by the board to be addressed at its next meeting.

Chairman Stenersen said:

- Outside sales, what area and what products will be outside
- The letter from Hannaford
- Traffic chart and summary
- Plans for mitigation area

Chairman Stenersen asked if an Alteration of Terrain permit would be required. Mr. Imse responded that it would be and that they would be filing for that.

MOTION: Kim McCummings moved to continue this Public Hearing until October 1, 2013 at 7:00 PM. Bruce Donati seconded the motion. Vote: 7-0-0

4. NEW BUSINESS

5. Planning Department Report

a. Randy Burt Impact Fees: Dave Duvernay will arrange for a payment plan which will come before the Planning Board for approval.

b. Taggart meadow issues: Dave Duvernay has been in telephone communication with a neighbor as it pertains to playgrounds, sidewalks and streetlights. Roberta Oeser said we will need to research this to see what was in effect when the PURD was approved.

c. Michaels Drive Bond: Letter from Dave Duvernay read into record. Many insurance companies are no longer issuing these bonds.

d. Pearly Pond Grant Meeting: Phil Simeone will be out of town on September 14, 2013 when the next Pearly Pond Grant meeting will take place at Dick Isaakson's home. Hank and Bruce said they would cover this meeting.

e. Thursday night's Non Public Session: Please arrive at 6:45pm for a discussion prior to the interview.

6. WORK MEETING

Chairman Stenersen recuses himself.

a. Driveway relocation at diner.

Vice Chair McCummings said this item is on the agenda this evening as a result of the moving of a driveway at the diner. An application was submitted to DOT after the site plan was approved. Some changes have been made on the property in order for this driveway to be put in place. The Board needs to decide what needs to happen to address this. Several people in town have questioned this change and have asked why the median was cut without giving notice of this.

After some discussion, the Planning Board determined that an updated set of plans showing this change would be sufficient. It was determined that this should be an agenda item for the next public meeting on September 17, 2013. This should be posted under OLD BUSINESS with proper Map and Lot designation and descriptions.

b. Rules of Procedure

Vice Chair McCummings asked board members to take a look at the Rules of Procedure, and specifically the section about Ex Parte Communications and review those rules. She said that statements have been made that could create a perception with the public that Ex Parte Communications have taken place.

Chairman Stenersen returned to the table.

c. TF Moran and FPU

Chairman Stenersen said that he had spoken with Jeff Kevan with TF Moran and that the ballfied site plan application would be coming in shortly.

d. Communication with other departments

Chairman Stenersen said that we need to do a better job communicating with Code Enforcement as it pertains to conceptual consultations and other topics.

e. Economic Development Task Force

Burt Goodrich said that the next meeting of the Economic Development Task Force will take place on Monday, September 9, 2013 at 8:30AM. The Police Chief will be in to address the board. Burt invited all Planning Board members to attend.

f. Filing Cabinets for Planning Office

Roberta Oeser said that it might be a good idea to take money from the planning director budget to get additional rolling file cabinets for the planning office. Mike Cloutier has volunteered to go to Houston's to get these. Chairman Stenersen asked Roberta Oeser to find out what the cost of these would be.

7. Non Public Session per RSA 91-A:3IIb for Personnel Matters

a. Approval of Minutes of August 20, 2013

It was decided to not go into Non Public Session this evening.

Adjourned at 9:15 pm
Respectfully submitted,

Susan Hoyland
Planning Secretary