

**CITY OF KEENE
NEW HAMPSHIRE**

**PLANNING BOARD
MEETING MINUTES**

Monday, April 24, 2017

6:30 PM

Council Chambers

Members Present

Gary Spykman, Chairman
Douglas Barrett, Vice-Chair
Nathaniel Stout
George Hansel
Pamela Russell Slack
Chris Cusack
Martha Landry
Andrew Bohannon

Staff:

Rhett Lamb, Asst. City Manager/Planning
Director
Tara Kessler, Planner

Members Not Present:

Mayor Kendall Lane
Tammy Adams, Alternate
David Webb, Alternate

I. Call to order – Roll Call

Chair Spykman called the meeting to order at 6:30 PM and a roll call was taken.

II. Minutes of previous meeting – February 27, 2017

Pamela Russell-Slack indicated that Mayor Lane should be noted as being present at the meeting.

A motion was made by George Hansel to accept the February 27, 2017 minutes as amended. The motion was seconded by Pamela Russell-Slack and was unanimously approved.

III. Public Hearing

1. SPR-01-17 – 639 Marlboro Rd, (Rt. 101) – Bulk Fuel Storage Facility – Site

Plan

Applicant Fieldstone Land Consultants, PLLC on behalf of owner, MAC Milford Realty LLC, proposes to build a 5,000 SF maintenance garage and office building and install two 30,000 gallon liquid propane tanks at 639 Marlboro Rd. The site is 5.05 acres in size and located in the Industrial & Conservation Zoning Districts (TMP# 068-01-001).

A. Board Determination of Completeness.

Planner Tara Kessler recommended to the Board that the Application SPR-01-17 was complete. A motion was made by George Hansel that the Board accept this application as complete. The motion was seconded by Andrew Bohannon and was unanimously approved.

B. Public Hearing

Mr. Chad Brennan civil engineer for Field Stone Lane Consultants addressed the Board first. Mr. Brennan stated he is before the Board representing the owner Mack Milford Realty LLC and Ciardelli Fuel Company. Mr. Brennan stated this application is for the purpose expanding the bulk fuel storage facility located at 639 Marlboro Road (Route 101).

Mr. Brennan stated this project proposes to construct a 5,000 square foot maintenance building, garage and office building and the installation for two 30,000 gallon propane storage tanks. South of the site is Branch River and Swanzey Factory Road. Property consists of 5.05 acres of

land and is located in the Industrial and Conservation Zoning districts. This property was developed by Chabott Coal and Oil in the late 1980's as a fuel storage facility. The improvements being proposed lie within the Industrial Zone and there is an existing tree line within the southern boundary which is flanked by jurisdictional wetland which is adjacent to Branch River. There is also the 100-year floodplain line which is depicted by the blue line on the plan. The property slopes north to south with storm water running into the Branch River. This proposal will maintain the existing access off Route 101.

Ciardelli Fuel Company purchased Chabot Coal and Oil and are looking to expand their presence in Keene.

Mr. Brennan stated there are number of site improvements contemplated with this proposal. The existing gravel parking area will be paved. There will be three parking spaces provided at the front of the office site, one of which would be a handicap space, five spaces under the canopy area, and nine spaces to the west, which would call for 17 spaces.

The tank storage area is currently at the center of the site will be relocated to the westerly portion and will be enclosed by a chain link fence for protection. Other improvements would include connecting the site to municipal water and sewer. Site lighting will be provided by seven building mounted lights and two pole mounted lights – they will all be full cutoff fixtures. The lighting meets the uniformity ratio. There will be some landscaping improvements as depicted on the plan along Marlboro Road. Applicant will be maintaining the existing plants but are proposing some infill landscaping. Any area disturbed will be mulched and seeded.

Mr. Brennan stated the applicant feels the site configuration will offer significant improvements on Marlboro Road and all the improvements will be shielded from Marlboro Road. One of the biggest improvements is the storm water management system being put in place. Currently all the water runs into the wetland area without any treatment. This project would construct a conveyance swale along the perimeter of the property which will move the water into an infiltration basin along the west side of the work zone.

The development of this site will have some impact on the floodplain, currently they are proposing to fill in about 108 cubic yards of flood plain. The applicant has filed for a City permit which is under review but the applicant is providing for a compensatory storage area which would provide for about 128 cubic feet of flood storage so they don't expect any negative impact to the flood plain because of this project.

In summary, Mr. Brennan stated the applicant feels this design meets local and state requirements and have addressed the 19 development standards. This concluded Mr. Brennan's presentation.

Dr. Cusack noted the existing stockade fence is going to be replaced by a chain link fence and asked whether any additional screening to act as buffer could also be added. Mr. Brennan stated the chain link fence is just for security and noted the existing stockade fence doesn't provide much of a buffer currently nor is it aesthetically pleasing. The plan is to add more landscaping in place of the stockade fence at the front of the property on both sides of the road which would cut back on the visibility into the site. He added the storage tanks are being relocated to the western corner of the property.

Chair Spykman asked for the landscaping being proposed. Mr. Brennan stated they are proposing two sunset maples in front of the property, 15 Rhododendrons in clusters along the front of the property, 10 Viburnum and six Junipers. He added they plan to infill around the evergreen that is already on site.

Ms. Landry asked about the maintenance garage and how much traffic this site will see during the course of a day as the staff report says. Mr. Brennan stated what they are proposing is not an expansion to what exists there right now. The fuel trucks are already on site and what is being proposed is propane storage which will reduce the traffic. The "Bobtail" on site requires regular filling but when there is a large reservoir is kept on site these trips would reduce. There will be about ten employees who will be working out of this site and many use this site already. He added it is not going to be a drastic change, the business is already happening right now out of the building and the applicant just wants to improve the look of the building and make their presence known in the community.

Ms. Russell-Slack stated she welcomes this new company to Keene stated she liked what is being proposed.

Staff comments were next. Ms. Kessler with respect to drainage the applicant is proposing to construct a collection swale and infiltration basin which will not increase the peak rate runoff volume from the site. Engineering had no comments on this. The applicant would need to obtain a Shoreland Protection Permit from EPA.

With respect to Sedimentation and Erosion Control the applicant proposes to install silt fencing and erosion control blankets which will be installed to the south of the proposed development area, parallel to the Branch River. She referred to the floodplain impact and the 128 cubic feet of fill that is being brought in, which exceeds the impact.

With reference to landscaping, they meet the standards and the applicant has indicated the chain link fence is more for security of the two 30,000 gallon propane tanks. The tank storage is now going to be located behind these propane tanks and added while there will be additional landscaping it will be difficult to completely screen these structures from the right of way because of the size of these structures.

Traffic impact is less than 50 vehicles per day. The applicant would need to obtain a renewal of their site access permit from the NHDOT to continue to use the access onto Route 101. This is a condition of approval.

With respect to hazardous and toxic materials, this is a proposal for storage of propane on site and would need a permit from DES to verify that a Spill Prevention, Control and Countermeasure Plan is in place.

Surface Waters - As mentioned previously, a Shoreland Permit from the NH Department of Environmental Services is pending. This site is also located within surface water protection ordinance but because the Shoreland Permit is required the local permits are waived.

Ms. Kessler stated there is no concern with architectural elements – the applicant is proposing the office area of the building will have an evergreen pre-finished standing seam metal awning over the door and window areas. The lower 3' to 4' of the office area will have be split-face masonry in a natural color. The architectural style and design of the proposed building appears to

be consistent with the existing development on the site and with an industrial area. Chair Spykman stated he doesn't quite agree with staff's comments with respect to standard 19. Architecturally it is a shed.

With no further comments, the Chair asked for public comment next.

Mr. Todd Little of 606 Marlboro Road stated he was not here to oppose the project but as a neighbor has some concerns. Mr. Little stated he has been a contractor for 35 years and he would look at this proposal as a sensitive project with many impacts such as runoff and spill containment, he asked if there are oil separators for the work that is being proposed for the garage. Mr. Little went on to say he has been at meetings in the past where the beautification of corridors was discussed and over the past 15 years this has dissolved. He stated he did not want to lose the beautification of the corridors and noted the power lines installed are not aesthetically pleasing. He stressed he doesn't oppose it but felt more attention needed to be paid.

He agreed this is an Industrial Zone but there are neighbors who live here who are also tax payers and consideration needs to be paid to that as well. He also noted lighting is a concern as this site is located directly across from a residence, He also talked about the Stone Arch Bridge and attention needs to be paid to that monument as well.

Councilor Hansel asked that the applicant give some additional information about the spill issue that was raised to ease the concern of the applicant. Mr. Brennan agreed this was a sensitive location because of its proximity to Branch River but noted it was a highly regulated site. He indicated DES will look at impact to Branch River and the applicant is working diligently to obtain the appropriate permits. There is an existing fuel storage facility on site which is monitored by the State and goes through regular maintenance. The two 30,000 gallon tanks are also going to require permitting through the State, which includes appropriate specifications, fitting, spill containment etc. He indicated everything is very well regulated.

Mr. Brennan stated he looks at this site as an improvement to what exists currently. From a drainage standpoint, the site is going to be self-contained and will drain internally and ultimately into that infiltration basin on site. If there is ever a spill it can easily be contained on site. The landscaping along Marlboro Road is also an improvement. The lighting meets all City requirements which had to be increased slightly to meet the uniformity ratio but there is no light pollution being caused.

The maintenance building is more a facility where they will have supplies for projects they are working on. There will be no floor drains or containment areas which would cause potential hazards for the environment.

Mr. Brennan felt this building is consistent with industrial use and the façade breaks up the building (canopy and colors).

Mr. Andrew Ciardelli owner of the property addressed the Board next. He indicated this would not be a maintenance garage but more for housing oil trucks and the maintenance that takes place would be just general maintenance.

In terms of operational uses, being located at the same location there will always be someone who is trained to take care of the equipment on site which seems to be a safer option.

With reference to propane tanks, he stated these tanks are built differently and much safer these days; they are built with smart hoses which shuts off the tank should a driver pull away from a tank accidentally. He further stated his family takes pride in the sites they own and their sites are well taken care of.

Mr. Brennan introduced Jody Pratt of Hamden Energy Consulting who has put together a fire safety analysis for this site and asked for her input. Ms. Pratt stated she prepared the fire safety analysis with Lt. Bates of the Keene Fire Department. She indicated the Fire Safety Analysis is something that is recognized throughout the country, it is a 200-page document as to how to handle propane facilities that carry over 4,000 gallons. This design will be reviewed by the state and has to meet all state and federal standards. The applicant is permitting access to this facility for the Fire Department to perform annual training and appropriate funding through the NE Gas Association for this training.

The Chairman closed the public hearing.

Councilor Hansel complimented how thorough this application was and felt all standards were met and stated he had no problem approving it. He also stated he was pleased to see a local company which was recently purchased by someone from outside being immediately invested in. This shows commitment to the community.

Chair Spykman agreed the standards have been met but was hoping more attention was paid to the architecture. He felt a steel shed would be appropriate in an Industrial Zone but this is a corridor into our City and something more than a steel shed would have been more appropriate. The Chairman stated he does appreciate the canopies to break up the façade and the colors that blend with the natural setting and hoped more attention could be paid to entrance corridors to the City in the future.

C. Board Discussion and Action

A motion was made by George Hansel that the Planning Board approve SPR-01-17, as shown on the plan set entitled “Site Plan Set, Ciardelli Fuel Co. Inc., Bulk Fuel Storage Facility Expansion, Tax Map Parcel 68-1-1 – 639 Marlboro Rd, Keene, New Hampshire” prepared by Fieldstone Land Consultants, PLLC Associates on March 16, 2017 and last revised on April 7, 2017 and on the building elevations entitled, “Ciardelli Fuel Co. Front and Left Side Elevation” prepared by Flynn Construction Corp. on February 17, 2017, with the following conditions:

1. Prior to signature by Planning Board Chair:

- A. Owner’s signature on plan
- B. Submittal of security for landscaping, sedimentation and erosion control, and “as-built” plans in a form and amount acceptable to the Planning Director and City Engineer
- C. The Applicant will obtain a floodplain permit for the proposed development from the City of Keene
- D. The Applicant will obtain a NH Shoreland Water Quality Protection Act Permit from the NH Department of Environmental Services
- E. The Applicant will obtain an Access Permit from the NH Department of Transportation

The motion was seconded by Pamela Russell-Slack and was unanimously approved.

With reference to the Administrative Approval Process, this is an item that was raised by the Mayor and asked whether this item should be continued until his return. The Chairman stated during the Steering Committee this was an item that was discussed as an item that should be discussed and the Mayor brought it forward to the public setting. The Chairman felt the matter should move forward.

IV. Review of Administrative Approval Process

Mr. Lamb stated the department gets about three or four types of minor amendments a year. The first is the change of use; Colony Mill, Toadstool, Benson Wood, Smiths Medical and Talons are examples of change of use. The question is whether some discretion needs to be applied for change of use.

The next category is a modification to an approved plan – a plan that is not under construction; Hillside Village and MoCo Arts are examples of this.

The next category a modification to an approved plan that is under construction – Mint Car Wash had three such changes. The applicant's engineer works with staff during construction to make such changes happen.

The other category is a modifications to sites that are already built – it could be a site that has been around for a long time; Nicolas would like to construct a roof top unit to improve ventilation in their kitchen, Monadnock Market Place for storefronts, or Monadnock Brewing.

Mr. Lamb referred to page 35 and 36 of the Board's regulations and noted these are the regulations staff works with. He recognized Ms. Kessler work with the flow charts on this page which outlines the steps for minor projects as well as for other projects. He referred to language on page 36, Item a (What Rhett is reading cannot be found on the Regulations on the web so I have paraphrased it) which talks about a circumstance where a use did not previously exist and this is the criteria staff used to approve the Colony Mill change of use administratively. The same would be true with a mattress store at the Hannaford Plaza using a space that was previously a restaurant. Mr. Lamb stated he has always looked at this language with some discretion in paragraph 3 "*...the Planning Board relies on the discretion of the Planning Director...*"

Mr. Lamb stated there is discretion built into the language. When staff is in these controversial moments, staff communicates with the Chair, the Steering Committee and let the Chair know what staff is doing.

Mr. Lamb stated he does not take these decisions lightly; the first consideration is whether there would be interest from the public. When staff moves a project from going before the Board to being reviewed by staff, it is moving a public process to a non-public process. Staff reviews whether there is value in having this as a public process or not. The introduction of Talons, a proposed bar on Ralston Street – there is no way this would be approved administratively, the public should be aware of this. The site at the Colony Mill had no changes to any of the standards, traffic, lighting, landscaping, parking but the only thing that changes is the activity that is going to take place. A month before this project was approved administratively, the applicant applied for a variance which was a public hearing and there was no interest from the public.

Mr. Lamb felt language in 2. a. should probably be revised to indicate what this criteria really means. Chair Spykman agreed and noted that there is discrepancy between the language that says change of use should come before the Board and other language that says it is up to the professional judgment of the Planning Director.

Mr. Stout noted for the hearing on the variance there was media present. Mr. Lamb stated what staff looked for is whether any of the abutters showed up.

Councilor Hansel noted 2. A. does not relate to any of the development standards. The Board has jurisdiction as to what happens on a property not the use. Councilor Hansel stated there have been times when items come up for discussion that steer the Board from its primary responsibility which is to enforce the development standards. Mr. Lamb agreed this is what would have happened with the Colony Mill site. Mr. Lamb felt there is no perfect set of criteria.

Mr. Stout stated when the matter came before the ZBA his concern was the density of the development, but the Planning Board does not have jurisdiction over the number of units. Mr. Lamb stated this would become an issue if the number of units translated into an impact – vehicle trips or pedestrian access.

Ms. Landry asked of these 33 items on this list whether all of them had to go before the ZBA. Ms. Landry asked how the public know about the other applications. Mr. Lamb stated most of them didn't and referred to the Hillside Village community where there was a fourth floor added to the Healthcare Building and this went before the ZBA and staff spoke to the only abutter who did not have an issue; the applicant provided a letter to that effect.

Dr. Cusack talked about the multiple modifications Mint Car Wash requested and asked whether there comes a time when it can be realized all these changes don't really keep with the original site plan. Mr. Lamb agreed there is but it has to be a legitimate reason before it gets sent before the Board for their review again. Mr. Lamb stated if there is a big change to the appearance of the building, location of a curb cut; staff is more cautious about issues such as that. The Mills on Ralston Street have not planted a row of landscaping along the south facing elevation. The Mills would like to gravel over this area and staff may not feel they have the authority to approve this request for change. Another item staff is cautious about is standard 19 which is a more subjective standard. Chair Spykman recalled getting a phone call about one of changes to the Car Wash and it was his judgment that particular request did not need to come before the Board.

Councilor Hansel felt there is a big difference between a tenant fit out and a development project and referred to the former Olive Garden site and noted once they come before the Board for a certain use and that use changes asking the applicant to come back before the Board seems an onerous task. The Councilor felt these big developers the City wants to attract operate in such a manner. The Chair agreed that tenant fit out does not affect site plan. Mr. Lamb agreed even if this is a change of use

Chair Spykman asked what the process was if the Board wanted to change its own language. Mr. Lamb stated there has to be a public hearing noticed. Staff would first bring the Board language to consider and if the Board is satisfied then a public hearing is scheduled – the matter does not have to go before City Council, the Board has the authority to change its own rules.

V. Discussion on Planning Board Fee Schedule

Mr. Lamb stated the Manager has requested that all departments look at their fee schedule, a process that needs to be done on a regular basis. Most fees are held in an Appendix as part of City Code. Planning Board has authority over its own fees as per Statute. He referred to the fee list the Board was given, the last time fees were revised was in 2008.

Ms. Kessler stated staff has been reviewing fees and comparing them to other communities. Twelve other communities were looked at. The challenge staff has if the department was to capture the entire cost of completing a site plan process the costs would be exorbitant. Hence, staff is looking at other communities more but also considering costs in Keene. She reviewed the legal advertisement cost of \$9.00 which she indicated was an arbitrary number; the fee for running a legal ad is variable – it costs between \$30 and \$80 but the task at hand is to make sure the City is not losing money. The fee being charged for administrative reviews is a flat fee of \$50 but looking at surrounding towns, this amount is low but it is important to note whatever the increase will not fully reimburse staff time designated for the review process. Chair Spykman asked if these fees don't full reimburse staff time, how are fees set. He asked whether there was a philosophical basis for this decision. Mr. Lamb stated sometimes the City takes the position it will recover all its costs, such as for a building permit where it could be tens of thousands of dollars for a commercial property because there is a lot of work that goes into it. He added if the City was to charge a full cost recovery the City would stop the type of development it would like to see; some recovery, some entry fee to get into the system but, by no means, not a full recovery. Other fees are also being looked at across City departments.

Mr. Stout felt these fees should be looked at on a periodic basis and added the ZBA is also looking at its fee structure at this time.

Vice-Chair Barrett asked how much effort it would take for staff to get an estimate as to how much each of the projects listed on the fee schedule would be; for example the cost of writing a legal ad. Councilor Hansel stated another issue that would be prudent to look at is how much the department makes on these during a year. Mr. Lamb stated the average the department makes on site plans is about \$8,000 per year and slightly less for subdivisions. Mr. Lamb added another reason the department is pursuing this is also to see how much time goes into each of these tasks.

Ms. Landry with reference to the legal ad suggested the petitioner should be billed directly for this work. With reference to the fees the department is collecting, she asked how much time goes into billing these customers for the \$8,000 the department is collecting. Mr. Lamb stated the applicant gets billed and the money is collected before the work is done.

Mr. Bohannon stated his department went through this exercise and asked staff to remind the Board about what the fiscal policies say about cost recovery. He added for Parks and Recreation it is for community benefit – the costs can't be set so high where people won't participate, same would be true here as well. The Chairman stated this is the philosophical decision the City has to make. Mr. Lamb stated staff can bring back a clearer picture of what the City policy says on this item because it does get to the question of what you are trying to achieve.

Councilor Hansel asked whether this Board would function under the Council policies. Mr. Lamb explained that this Board is not subject to those policies but it does set the tone. Councilor Hansel felt average plus a percentage is a great way to make sure the City is not losing money but added he did not want to add to staff's workload.

VI. New Business

None

VII. Upcoming Dates of Interest – May 2017

Planning Board Meeting – May 22, 6:30 PM

Planning Board Steering Committee – May, 9, 12:00 PM

Joint PB/PLD Committee – **Tuesday May 2**, 6:30 PM

Planning Board Site Visits – May 17, 8:00 AM – To Be Confirmed

Meeting adjourned at 8:10 PM.

Respectfully submitted,

Krishni Pahl
Minute Taker

Reviewed by: Rhett Lamb, Planning Director
Edits, L. Langella