

**CITY OF KEENE
NEW HAMPSHIRE**

**PLANNING BOARD
MEETING MINUTES**

Monday, October 26, 2015

6:30 PM

Council Chambers

Members Present

Gary Spykman, Chairman
Nathaniel Stout, Vice-Chair
Douglas Barrett
Councilor James Duffy
Andrew Bohannon
Christine Weeks
George Hansel
Pamela Russell Slack
Tammy Adams

Staff

Rhett Lamb, Planning Director
Michelle Chalice, Planner
Tara Germond, Planner
Thomas Mullins, City Attorney

Members Not Present

Mayor Kendall Lane

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 – August 24, 2015 and October 6, 2015

A motion was made by Christine Weeks to accept the August 24, 2015 minutes and the October 6, 2015 meeting minutes. The motion was seconded by Pamela Russell Slack and was unanimously approved.

III. Public Hearings

1. SPR-148, Modification 1 – Irving Gas Station – 410 West St – Site Plan –

Applicant Irving Oil Marking, Inc. on behalf of owner Spirit SPE IM Portfolio 2013-9, LLC proposes to replace the gas station canopy, fuel pumps, concrete pad, and underground storage tanks. The site is 0.901 acres in size and located in the Commerce Zoning District (TMP# 056-01-002).

A. Board Determination of Completeness.

Michele Chalice recommended to the Board that Application SPR-148 was complete. A motion was made by Christine Weeks that the Board accept this application as complete. The motion was seconded by Douglas Barrett and was unanimously approved.

B. Public Hearing

Mr. Frank Montero, Civil Engineer was the first to address the Board. Mr. Montero referred to where this site is located on 410 West Street. He referred to Avon Street on a plan which has two access points into this site as well as two access points from West Street into this site. Mr. Montero stated the existing fuel tanks on this site need to be replaced before the end of this year according to DES Regulations. There are three existing 10,000 gallon fiber glass tanks at the site and the proposal is to replace them with one 15,000 gallon (unleaded fuel) tank and a 12,000 gallon, 2 compartment (super

unleaded and diesel) tank. New piping will also be put in. The concrete dispenser islands will be replaced.

Mr. Montero stated while doing this they would also like to replace the existing canopy to meet current code. He explained one of the shortcomings of the existing canopy is that it is very narrow (26 feet wide) and the applicant would like to widen the canopy to 39 feet for better weather protection for customers. A widened canopy causes a non-conforming setback of 6.3 feet from the front property line. Mr. Montero stated they have met with Code Enforcement who had indicated the applicant is permitted to extend this non-conformity up to 50% by right. Hence, the applicant has reduced the width to stay within this 50%. Mr. Montero stated there will also be some U shaped bollards installed to protect the dispensers. There will also be a new concrete mat in the fuel dispensing area. There will also be spill contamination grooves added to the dispensing area which is an added feature for this site.

One of the other features the applicant would like to improve is the accessibility which does not to meet current code. He referred to where the current handicap parking spot is located which he stated is going to be restriped and the van accessible island is going to be properly delineated. The entire sidewalk in this area is also going to be rebuilt. Mr. Montero went on to say the applicant is proposing to take out the existing arborvitae trees located in front of the building due to sight distance issues and also to make this area look a little better.

Currently the discharge from the canopy discharges onto the pavement which could be hazardous during winter months. The applicant is proposing to locate down spouts inside the column and tie it into the underground drainage system and divert it to the rear of the site where there is a low lying infiltration area.

Mr. Montero stated the applicant is proposing silt fencing at the rear along the wooded area. There is also going to be some silt fencing placed along the driveway. He further stated the plan is to keep this site open during construction so this would be a phased plan. The client will meet with Public Works and the Police Department to provide them with a traffic control plan.

Mr. Montero talked about the architecture of the canopy which would be similar to what exists at the site now. The new canopy will be slightly higher than the existing canopy. There is going to be a big improvement to lighting with respect to the existing canopy. The new canopy will have LED lighting which will be flush with the canopy deck. The ones that exist now are drop lenses which drop below the canopy deck and create a horizontal glare. Mr. Montero stated the applicant does meet the City's lighting standards; parking and pedestrian limitation calls for 3.6 foot candles and the applicant is providing for 3.5 foot candles. The city's requirement for vehicular movement is two-foot candles and the applicant has 1.75. The requirement under the canopy is a maximum of 22-foot candles and the applicant is providing for 20.19. He stated staff asked for an average foot candle for the entire site and the requirement is 8 foot candles and the applicant is providing for 7.07. There are no other changes to lighting, the existing poles will remain. There will also be no changes to the building or to the drive thru. This concluded Mr. Montero's presentation.

Ms. Weeks stated there has been concern about traffic backup at the drive thru which makes access to businesses and Antioch University located on Avon Street difficult and asked whether any modifications are being considered. Mr. Montero stated no modifications are being considered but the applicant has talked to Dunkin Donuts' franchisee about this issue who indicated he is opening a new store on Court Street in November which would reduce some of the congestion; nurses from the hospital visit this site and the feeling is the Court Street store would alleviate some of the issues.

Ms. Weeks asked what plan the applicant has to make the plantings look better. Mr. Montero stated the timber curbing can be replaced with granite curbing. The plantings in the front of the site cause sight distance issues and the suggestion is to replace these with lower plantings, perhaps, perennials. Ms. Weeks stated the staff report talks about the elimination of ten parking spaces and asked whether this was just during construction. Mr. Montero answered in the affirmative and stressed this was going to be phased construction and the plan is to look for offsite parking for employees and construction workers and referred to the gravel parking area located along the driveway of Antioch University and stated they were planning on asking the University about using some of these spaces. Ms. Weeks clarified a handicap parking space will be maintained during construction. Mr. Montero answered in the affirmative. Ms. Weeks asked whether the applicant looked at locating the drive thru further back on the property so cars don't have to queue on Avon Street. Mr. Montero stated this option was not part of this project scope at this time but this is something that would be looked at long term.

Mr. Barrett stated during the site visit they learned the Dunkin Donuts drive thru is going to be open during construction and asked how the schedule for the convenient store and gas station would work. Mr. Montero stated the plan is for the project to start at the end of December and the convenience store will be opened when Dunkin Donuts is open. He indicated the applicant is meeting with the contractor to finalize some safety issues for the front door during construction. The project is planned to be completed in eight weeks.

Staff comments were next. Planner Michele Chalice stated because of the limited scope of this project there was no room to increase LID measures on this site. She referred to the new stormwater collection being proposed by the applicant, which would improve the runoff going onto West Street and Avon Street. She noted to the three complex business operations happening at this site and staff has made reference to a traffic control plan which has been made part of the motion. She added that accessibility is also being addressed well by the applicant. Ms. Chalice pointed out that one aspect about this plan is that it is automobile focused and does not address pedestrian access well. The plan also does not have a bike rack which is required by all plans at this time which is something the proposed motion calls for.

Vice-Chair Stout stated he wanted it to be clear the traffic control plan being required in the motion is only during the construction process but not for the final site. Ms. Chalice agreed it does say construction process. Mr. Stout stated the reason he brings this issue up is because this is a site that begs for permanent traffic control. Mr. Lamb called the Board's attention to page 15, to an email forwarded to him from Police Chief Brian Costa. Mr. Lamb stated he had asked the Fire Chief and Police Chief to look into the queuing issue even though it is not part of the Board's jurisdiction tonight – this is an ongoing problem for the City. He referred to an email from a staff person at Antioch which also outlines the persistent problem with queuing that happens on Avon Street and as well as, at times, on West Street. This is an inconvenience but could also be considered a safety issue. He stated staff does not expect the Board to include any conditions on this site plan regarding that issue but this is a situation that needs addressing in the long run and felt perhaps the opening of a Dunkin Donuts on Court Street would improve the situation. Otherwise, the owner of the store would need to address this issue before some sort of tragedy does occur.

The Chair asked for public comments. With no further comments, the Chair closed the public hearing.

Councilor Duffy stated he is glad about the addition of the granite curbing and bicycle rack. With reference to traffic he recalled approving the site plan with no concerns about safety raised by staff. It has obviously become worse and felt the brand Dunkin Donuts attracts more customers than other places and the increase to the student population adds to this issue. The Councilor referred to the different route he is taking so as to avoid this portion of West Street. He stated he would like to know

from staff how the Board could compel an applicant to fix problem the City allowed to happen. He indicated he would like to see how this can be addressed and felt this has a lot to do with the way the City's standards are written.

Chair Spykman stated he shares the Councilor's concerns and added when traffic is blocked on Avon Street, people trying access Antioch are stuck in this line and often that traffic tries to go around which causes its own issues. However, the Board does not have it in its purview to do anything today and hoped the opening of a new facility on Court Street would address this issue.

C. Board Discussion and Action

A motion was made by Nathaniel Stout that the Planning Board approve SPR-148 Modification #1, as shown on the plan entitled PROPOSED SITE IMPROVEMENTS, TAX MAP 56 BLOCK 1 LOT 2, 410 WEST STREET, KEENE, NH, prepared for Irving Oil Marketing, Inc. dated September 9, 2015, and revised October 26, 2015, drawn by MHF Design Consultants, Inc. at various scales with the following conditions:

1. Submit a written narrative describing accommodation of non-automobile trips to and from the site.
2. Submit a revised site plan with a bicycle rack, replacement granite curbing and perennials for the three raised planters along West Street, to be approved by planning staff.
3. Submit a Traffic Control Plan for the project's construction process to the satisfaction of the City's Public Work's Director.
4. Prior to signature by Planning Board Chair, owner's signature on plan.

The motion was seconded by Christine Weeks and was unanimously approved.

2. SPR-04-14, Modification 6 – Talons Restaurant – 141 Winchester St – Site Plan

Applicant Katie Cassidy Sutherland, Architect, on behalf of owners 141 Winchester St, LLC, proposes an 80-seat restaurant. The site is 0.29 acres in size and located in the Commerce Zoning District (TMP# 052-02-004).

A. Board Determination of Completeness.

Michele Chalice recommended to the Board that Application SPR-04-14 was complete. A motion was made by Douglas Barrett that the Board accept this application as complete. The motion was seconded by James Duffy and was unanimously approved.

B. Public Hearing

Chair Spykman read the following letter from the Zoning Administrator into the record:

1. *Question Presented*

The question has been submitted to the Zoning Administrator as to whether or not a proposed permitted use as a restaurant to be located in a portion of the building at 141 Winchester Street is required under the Zoning Ordinance to have parking in addition to the 12 parking spaces now serving the building. In answering this question, it is necessary to review the history of the building, and the prior Zoning Administrator's determination that the 12 parking spaces serving the building constitute a pre-existing non-conforming requirement under the Zoning Ordinance.

2. *Prior Zoning Administrator Determination*

In May 2014, a proposal to renovate a portion of 141 Winchester Street was submitted to Code Enforcement to change the use of a portion of the building from retail to restaurant, Aroma Joe's. At the time of the proposed use, parking on the site consisted of 12 parking spaces; 5 spaces in front of the building entering from Winchester Street; and 7 spaces in back on the North side of the building. Based on the previous uses of the building, which included a bridal shop, tanning and beauty salons, and a small hot dog shop, a total number of 32 parking spaces would have been required for the use of the building based on the current Zoning Ordinance. (Please see the attached Existing Conditions Parking Calculations plan). Accordingly, because of the building never had the parking spaces that would be required now by the Zoning Ordinance, it was determined by the Zoning Administrator that the site was a pre-existing non-conforming building. Because the site was pre-existing and non-conforming under the Zoning Ordinance with respect to parking, and because the building did not have the number of parking spaces required under the Zoning Ordinance, a determination had to be made as to how much parking would be required for the proposed use of a portion of the building as a restaurant.

The space Aroma Joe's intended to occupy was previously a retail store of 2,228 sq. ft. The Zoning Ordinance requires 1 parking space for every 200 square feet, or a total of 12 parking spaces for the spaces based on square footage. A restaurant requires a different calculation for parking at 1 space for every 4 seats. It was determined that 12 spaces were grandfathered for the retail spaces to be occupied by Aroma Joe's, and that 11 spaces would be sufficient for a Change of Use to a different type of occupancy. It was then determined that the restaurant could accommodate 44 seats which would require 11 parking spaces. The tenant submitted a plan for a 40 seat restaurant. Because the Planning Board required a revised site plan eliminating the 5 parking spaces entering from Winchester Street, the owner of the site was required to provide 5 parking spaces off site or to reduce the number of seats in the restaurant. Eventually two parking spaces were returned to the property entering from Winchester Street, and 3 parking spaces were leased by agreement from 121 Winchester Street, resulting in total of 12 required parking spaces, 11 of which were available for the new restaurant.

3. *Proposed New Use*

Another proposed change to the building has been submitted to the City for review. The proposed use would occupy the remainder of the existing buildings previously occupied by the tanning and beauty salons and hot dog shops. This area consists of 4,000 square feet of total floor space. The number of required parking spaces under the Zoning Ordinance based on a square foot calculation would be 20 additional parking spaces. However, based on the previous zoning determination that the building is pre-existing and non-conforming with 12 available parking spaces, the additional 20 parking spaces are not required for the new proposed use under the Zoning Ordinance. However, because the proposed use is a restaurant, which would otherwise require 1 parking space for every four seats, the proposed restaurant must be limited to no more than 80 seats.

4. *Determination*

Based upon the foregoing, the determination of the Zoning Administrator is that no additional parking spaces are required under the Zoning Ordinance for the proposed use as a restaurant of the remaining square foot space of the building located at 141 Winchester Street. In addition, the restaurant must be limited to no more than 80 seats.

Zoning Administrator

Gary Schneider

Dated: 10/22/15

Chair Spykman noted the letter from the Zoning Administrator and his determination is that the applicant has met the requirements for parking without the need to provide any additional parking.

Ms. Weeks referred to comments received from abutters; Mr. Grashow and The Pub Restaurant which contradict what the applicant has said in that they have been in consultation with the abutters. She asked whether the Planning Board could defer approval of the site plan until the parking issue has gone before the Zoning Board of Adjustment. The Planning Director asked the Board to hear from the applicant and staff on this issue. The Chair noted there is a jurisdictional issue as to whether the Board can hear this item but stated he would like to hear from the applicant on the issue of parking.

Katie Sutherland, architect representing the applicant, addressed the Board next. Ms. Sutherland stated she has met with staff to see how this plan can be accommodated. She explained the rear portion of the building which is 4,000 square feet would have 20 grandfathered parking spaces and the applicant has come up with a plan to construct a restaurant that would have 80 seats in this part of the building; these 80 seats include the accessory bar stools and the couch seats (video game recreational area). Ms. Sutherland added there are seven spaces on the north side of the building and two spaces on Winchester Street.

There will be two entrances to the building; one entrance would be via the accessible parking space and the other will be off the north entrance. Ms. Sutherland added there are also plenty of metered spots on Ralston Street, eight of which are 300 feet from this site. The peak hours are estimated to be after 7 pm when there is very little traffic in this area. The applicant is marketing mostly for college students who live at the Mills, Arcadia Hall and the Davis Street apartments. Hence, they are catering mostly to foot traffic trying to provide for a safe recreational area for students to relax. This concluded Ms. Sutherland's presentation.

Chair Spykman stated the letter from Code Enforcement is an interpretation of the Code and felt there are those on the Planning Board who don't necessarily agree with this interpretation and stated he did not want to waste the applicant's time if this interpretation was going to be challenged. Ms. Sutherland noted that precedent has already been set with the approval of the Aroma Joe's site plan application where the grandfathering of spaces for a different tenant space on the same lot has already been established and felt in all fairness that their project also be given the same consideration which is what they have been led to believe all along. Chair Spykman stated he wasn't sure how Code Enforcement's ruling on Aroma Joe's application worked but what the Planning Board was counting were parking spaces and all spaces at this lot have been used by Aroma Joe's.

Mr. Lamb stated the letter from the Zoning Administrator in front of the Board is what the Board should evaluate, and added he had participated to some extent in the analysis that led to this letter. However, it is the opinion of the Zoning Administrator and that is the only opinion that matters in this case and of course the Planning Board's opinion under its authority and jurisdiction. However, in the first instant it is the opinion of the Zoning Administrator. He stated he does have some background on this issue and was happy to answer any questions.

Mr. Barrett referred to what Mr. Lamb had stated in that the Zoning Administrator's opinion is the only one that matters in this case and clarified it would be the Zoning Board of Appeal's decision that ultimately would matter. Mr. Lamb went on to say that any item that comes before Code Enforcement has to be evaluated under the zoning ordinance to determine if a use is allowed and this decision is always made by the Zoning Administrator which can be appealed in front of the Zoning Board. In this case, the Planning Board also has the authority to ask the Zoning Board to evaluate this decision. One of the basic premises of the site plan process is that applications comply with the zoning ordinance before they come through the site plan process and this is the question before the Board today.

Ms. Weeks asked whether an appeal has been filed. Mr. Lamb answered in the negative. Ms. Weeks noted when the Aroma Joe's application came before the Board they were required to look for offsite parking for a 40 seat restaurant and the application before the Board is an 80 seat restaurant. She stated she didn't understand why the City wouldn't require parking for this new use. Mr. Lamb stated the reply is in the letter and the demand for parking is what is consistently applied but how this is applied under the site plan review is the question and what the Planning Board should be evaluating.

Chair Spykman asked for public comment on the determination made by the Zoning Administrator.

Attorney Tom Hanna representing The Pub addressed the Board next. Attorney Hanna stated he does have an opinion on the determination but felt his opinion might be premature. He indicated he is in receipt of the Zoning Administrator's letter just today and his experience with the Planning Board – one of the pre-requisites for filing a site plan review application is a determination by the Zoning Department that the site conforms with zoning. He went on to say that a public hearing should not proceed until a determination has been made that an application meets with zoning. There is now an administrative ruling which is appealable and once that is resolved the Planning Board can review the merits of the site plan.

Mr. Lamb stated there is not always a written confirmation that an application complies with zoning and added it is not out of the ordinary for planning staff to get this letter at a later point. Mr. Hanna in response stated there is no question this item will rise or fall on the zoning issue which is a serious issue in this case.

Ms. Russell Slack stated after what she has just heard, she would like this evaluated by the Zoning Board and stated she does have a concern about parking in this area.

Ms. Weeks asked if the Planning Board went ahead with the site plan process today and an appeal was later filed, whether the site plan process will then have to be redone. The Chair referred this question to the City Attorney who said that was a possibility. Ms. Weeks felt it would be better for the Planning Board to defer this application until a decision has been made by the Zoning Board.

With the issue of informing the abutters, Ms. Sutherland stated she and the applicants met with the owner of The Pub, Kim Ionou who did not express concern at the meeting until an email was received later. There was also a message left with Gary Grashow by the building owner and he was informed of this hearing. Mr. Grashow has moved to the seacoast but has not updated his address with the Assessing Department. He seems to have found out about this hearing because he did contact the City regarding this item. They had also talked to the owner of The Mills who was in support of this proposal and felt his tenants would frequent this restaurant by foot.

Mr. Hansel asked what the implications would be in delaying this application. Chair Spykman felt it was a fair certainty someone would appeal the Planning Board's decision which would likely stall the process until the Zoning Board makes its decision. He did not feel the Planning Board not addressing the site plan today would delay anything if the decision is going to be appealed anyway.

Councilor Duffy felt it would be prudent to have a final determination by the Zoning Board.

Mr. Bohannon stated he was inclined to send it to the Zoning Board and added the item will come back to the Board. He went on to say it is unfortunate all of this will delay the process but felt it was important to go through the process and make sure the Zoning Board hear this matter where the Zoning Administrator has made a decision. Councilor Duffy agreed.

C. Board Discussion and Action

A motion was made by Christine Weeks that the Planning Board moves that because of the issue of whether or not parking requirements have been met under the zoning ordinance for the proposed use a determination of the parking requirements first be made by the Zoning Board of Adjustment before proceeding further with a site plan review.

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

Ms. Sutherland asked whether they could be on the agenda for the next Zoning Board meeting. Mr. Lamb stated that as far as he is aware the ZBA agenda has been finalized but assured Ms. Sutherland he would inquire as to whether this application could be on the agenda and get back to her.

IV. Boundary Line Adjustments

1. S-05-15 – 73 Rule Street – Boundary Line Adjustment – Applicant Rob

Hitchcock on behalf of owners Keith L. Auger & Diane M. Richards propose to adjust the boundaries between their 2 lots. A Waiver is requested from section III.C.5.b of the Planning Board Regulations; “An updated survey showing the Boundary Line Adjustment(s), and all metes and bounds of the revised parcels shall be prepared and the resulting survey plats shall be filed for recording in the registry of deeds.” The sites will be 13,253 SF and 10.1 acres in size and located in the Low Density Zoning District (TMP#s 908-18-026.0000 and 013-03-009.0000).

A. Board Determination of Completeness

Michele Chalice recommended to the Board that Application S-05-15 was complete. A motion was made by Christine Weeks that the Board accept this application as complete. The motion was seconded by Pamela Russell Slack and was unanimously approved.

B. Public Hearing

Chair Spykman stated boundary line adjustments are not public hearings but it has been the practice of the Board to hear from the public.

Mr. Russ Huntley of SVE Associates was the first speaker on this application. Mr. Huntley stated what the applicants would like to do is to trim off about 80 feet from the frontage from the lot that has the house and transfer that to the vacant lot. Mr. Huntley stated the applicants’ plan for the future is if they were to sell the lot with the house, be able to keep the ten-acre lot and retain as much of a buffer as possible between the two lots. Both lots meet the zoning criteria.

Staff comments were next. Ms. Chalice stated this is a very straightforward application but a waiver was requested because the regulation indicates the requirement of a complete metes and bounds survey. The entire parcel is ten acres in size and would have been an expensive endeavor for the applicants. Ms. Chalice indicated the Board as a result is required to go through the waiver criteria.

a) *That granting the waiver will not be contrary to the spirit and intent of these Regulations;*

Mr. Huntley stated the Board’s regulations require a metes and bounds survey for the entire ten acres so the public could be protected from this lot likely turning into being a non-conforming lot. Mr. Huntley stated in this case the ten-acre lot was not surveyed and stated nothing was changing on that lot regardless of whether the project goes through or not.

b) *That granting the waiver will not increase the potential for creating adverse impacts to abutters, the community or the environment; and*

Mr. Huntley stated as he has said before, nothing is changing on this ten-acre lot and there will be no impact to any of the abutters.

c) *That granting the waiver has not been shown to diminish the property values of abutting properties.*

Because nothing is being changed except an adjustment between two contiguous lots owned by the same individuals and except for a small portion on Rule Street nothing else is changing on this lot.

d) *Consideration will also be given to whether strict conformity with the regulations or Development Standards would pose an unnecessary hardship to the applicant.*

Mr. Huntley felt financially surveying the entire parcel would be costly for the applicant and he would hesitate to create a deed without a survey in this case. As a result, not doing a survey would be the best option.

Ms. Chalice noted none of the Board's 19 development standards are relevant and there is no construction being proposed. Hence staff has no additional comments.

Chair Spykman felt at some point the property will change hands and asked whether it could be an issue for a future purchaser to not have a survey included in the deed. Mr. Huntley stated what is likely to happen in the near future is the sale of the house lot which has been surveyed. He felt it would be up to a future purchaser to have the ten acre lot surveyed.

Mr. David Galuccio of 61 Rule Street asked whether the ten-acre lot will remain zoned low density given the slope of the land. Chair Spykman stated there is no recommendation for a change to zoning at this time. Mr. Lamb noted the ten-acre lot is currently zoned rural.

Mr. Barrett pointed out the application refers to this property as low density. Mr. Lamb stated the notice refers to the property as both low density and rural.

C. Board Discussion and Action

A motion was made by Christine Weeks that the Planning Board approve S-05-15 and the requested waiver from section III.C.5.b, as shown on the plan identified as BOUNDARY LINE ADJUSTMENT between parcels owned by Keith L. Auger & Diane M. Richards", Parcels 908-18-026.0000 & 013-03-009.0000, 73 Rule Street, Keene, Cheshire County, New Hampshire, dated March 27, 2015, drawn by SVE Associates at a scale of 1" = 20'.

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

V. Driveway

1. 104 West Street – Colony House – Applicant Joslin Kimball Frank requests an additional driveway curb cut on the western side of the lot along School Street. There is an existing driveway on West Street, on the northern side of the lot (TMP# 046-06-006).

Public Hearing

Ms. Lisa Cooke, niece to Joslin Kimball Frank and Manager of Colony House addressed the Board and stated this home is on the National Historic Registry and stated the applicant has been before the Historic District Commission. In keeping with the historic nature of the property has maintained the driveway to its original configuration. However, the site is now seeing an increase to its clientele which makes the exit on to West Street difficult for those who are not familiar. Ms. Cooke noted this

exit is about 100 feet from an intersection which also adds to some of the confusion as well as the foot traffic in this area.

Ms. Cooke went on to say the applicant has tried to lease or purchase parking spaces in the rear of the site in the NGM parking lot which is her preferred option. However, this alternative has not come to fruition. The past winter with the amount of snow this area has seen made maintaining the driveway for customer access even more difficult.

Hence, what is being requested today is a curb cut on the west side of the property with a parking lot with four parking spots while still maintaining the historic integrity of the property; only four rooms are rented at a time. The applicant is requesting to maintain the existing entrance and portions of the existing driveway which will be used for the applicant's personal use. Ms. Cooke stated the application refers to a proposed driveway but stated this is a curb cut into a parking lot and there is not much of a driveway here. Ms. Cooke stated the applicant is aware of the drainage that exists here and is choosing surface that is permeable. This concluded Ms. Cooke's presentation.

Mr. Hansel asked what type of surface is being considered. Ms. Cooke stated that hard pack is being considered at the present time. Paver options were looked at but it has proven to be too costly. The area will not be plowed instead a snow blower will be used to maintain the surface. Chair Spykman explained to the Board the only thing they are considering tonight is the driveway application, the parking lot is not being considered tonight. Staff indicated the parking lot issue is being proposed to be considered through administrative review. The Historic District Commission has looked at this site and addressed the 19 Development Standards. Vice-Chair Stout clarified whether or not the City Engineer addresses driveway applications without the need to come before the Planning Board. Ms. Germond explained this is an exemption to the driveway standard which allows only one driveway per lot and what is before the Board is an additional driveway request. Mr. Lamb noted the City Engineer is authorized to approve driveway applications for one and two family homes all other driveway applications need to come before the Planning Board. Ordinarily, this would be a site plan application. Vice-Chair Stout asked how this establishment would be referred to. Ms. Germond stated it is a commercial use - a bed and breakfast.

Mr. Bohannon referred to the staff report and noted the engineering comments indicate this is not a driveway but a parking lot and stated he will be taking this under consideration when voting on this item. Mr. Barrett stated this is perhaps because the Board is considering a curb cut and not a driveway. Ms. Germond stated because the application called for a parking lot and a curb cut, engineering wanted to be sure the Board would look at it as such and the reason staff asked the applicant to go through a site plan review.

Staff comments were next. Ms. Germond referred to the standards included within the city code that address exemptions when requesting a second driveway (Sec. 70-135. (c) (4)) and asked the Board to review this when considering this application:

- *Issuance of the exception will not reduce the safety of pedestrians, bicyclists and vehicles using adjacent streets and intersections.*

Ms. Germond stated the applicant has indicated the second driveway will not impede sight distance.

- *Issuance of the exception does not adversely affect the efficiency and capacity of the street or intersection.*

It has been noted by the applicant and staff agrees this is not an ideal place for a parking area and whether it has any impact on the efficiency of the intersection has not been studied further.

- *There are unique characteristics of the land or property which present a physical hardship to the requestor.*

This is the only other location for this curb cut in complying with city code.

- *In no case shall financial hardship be used to justify the granting of the exception.*

The applicant has not suggested a financial hardship.

Ms. Germond further stated the Historic District Commission did have a public hearing and there was an opportunity for public comment on the driveway and the parking area.

Vice-Chair Stout asked whether there is any way the traffic pattern will change with this application. Ms. Germond stated the applicant is not proposing any increase to their customer base – they accommodate only four visitors at a time. Ms. Germond further stated the applicant is proposing to reduce the existing driveway by about 2/3rds its size, replacing it with landscaping and are not expanding the parking on site.

The Chair asked for public comment. There was no comment from the public.

Board Discussion and Action

A motion was made by Pamela Russell Slack that the Planning Board approve an application and exemption for a second residential driveway on the western side of the lot at 104 West Street (TMP## 046-06-006) subject to the following conditions:

1. Driveway design shall not direct storm water flow or disrupt existing drainage in the City of Keene right of way.
2. The sidewalk will be restored or replaced in compliance with section 70-127 of the City Code of Ordinances.
3. The Applicant will procure all necessary permits and approvals prior to commencing construction.

The motion was seconded by James Duffy and was unanimously approved.

VI. **ADVICE AND COMMENT**

Mr. Stan Glantz of Katz Properties introduced himself. Mr. Glantz stated his company purchased Monadnock Market Place in 2013. Mr. Glantz went over his history with the Konover property. He indicated since Katz Properties purchased the property Circuit City has vacated and Planet Fitness was located at that location, portion of the former Borders area has been occupied by Ulta. There is 6,000 square feet still remaining next to Olive Garden they hope to lease very shortly. Recently Olive Garden closed after their ten-year term and the applicant is actively looking for other opportunities. Mr. Glantz stated what the market is dictating is a multi-tenant building. With that Mr. Glantz turned the presentation over to Jim Phippard.

Mr. Phippard of Brickstone Landuse Consultants stated that this property has a long history. It is a 70 acre property, zoned commercial. In 2003, approval was obtained to build what exists there today. Olive Garden recently closed down and Mr. Phippard noted this is an important location at the property (corner of Route 9 and Ashbook Court).

Mr. Phippard stated there are currently three restaurants located there today; Longhorn, Chillis and the Olive Garden building. He stated what the owners would like to do is to tear down the Olive Garden building and replace it with a new structure. Mr. Phippard pointed out that Olive Garden was a 200 seat restaurant, 8,000 square feet in size which is big for the City of Keene.

Mr. Phippard stated the new structure will be about 10,000 square feet in size and the pad of this building will extend to the west. He stated the applicant is also proposing to make some changes to the vehicle circulation which will also change some of the landscaping. Currently the parking is located north and south and the proposal is to change what is located between the Olive Garden site and Longhorn. They would like to locate the entries close to the four tenant entryways and added the applicant currently does not have four tenants and there is a likelihood this number could change between two and six. He added as tenants move in they will be back with proposals for the exterior façade.

There are no changes being proposed along Ashbrook Road other than thinning out some of the landscaping on the property. Mr. Phippard noted the three-inch caliper trees that were planted ten years ago have grown into nearly eight inches in size and tripled in height and causing a visual barrier. Mr. Phippard stated they look at landscaping as not only to provide an appealing view of the property aesthetically but to also screen parking. He did not feel the main purpose of the landscaping is to hide the building. He stated they are proposing to thin out some of the landscaping and remove only the trees that are not thriving. He added they are proposing to add 11 more trees which will come back as a proposal at a later time. They are also proposing to expand one of the internal landscape islands which will allow for trucks to travel through the property and provide for better turning radiuses. Mr. Phippard went on to say that they meet the parking requirements. This concluded Mr. Phippard's presentation.

Councilor Duffy asked whether Mr. Phippard sees landscaping providing any other functions. Mr. Phippard stated if the 19 development standards were looked at they are for the purpose of providing screening. However, large trees provide for shade in large parking areas. He added the irrigation system was greatly accelerated by the landscaping on this property. Landscaping also adds visual interest but stated what he was trying to say is that there is also an aspect that can be a negative. If you are a business owner and no-one can see your property this can be considered excessive landscaping. The Councilor asked whether Mr. Phippard feels landscaping can have any mitigating aspects to runoff and flooding. Mr. Phippard stated they do and depends on how it is used. Mr. Phippard explained the very effective drainage system that exists at Monadnock Market Place.

Ms. Weeks asked how many trees are going to be removed. Mr. Phippard stated 24 will be removed and 11 new ones will be planted. Ms. Weeks asked for a better explanation as to the location of trees for next month.

Mr. Patrick Moore architect for the project was the next speaker. Mr. Moore stated they attempted to take the lead from existing buildings on this site for the architectural elements. He stated what they are trying to construct is a building that will be flexible regardless of the number of tenants. He noted what is typically seen with smaller size tenants is a continuous store front but there could be some specific request for a certain tenant. For the time being, the store front will be pretty generic.

There are canopies also being shown with the understanding that some tenants might want them and some won't. The general material is consistent with what already exists in some of the other buildings; brick piers, cornice moldings across the top and stucco band as a backdrop for the sign. The north side

shows an outside seating area and could likely be a site for a restaurant. The south side is a mirror image of the north side.

Ms. Weeks asked whether there was a sidewalk along the west side. Mr. Phippard stated there was a continuous sidewalk similar to what exists in front of Pier One. There are sidewalks on the east side as well.

Mr. Glantz noted the three buildings in this part of the site are smaller in scale compared to some of the other buildings on this site. He indicated they did not want to have a very large structure at the corner of the site.

Councilor Duffy stated he was in favor of this proposal and added when he first read the application and saw mixed use listed he was under the impression it would be a residential development. He expressed his disappointment that this was not the case as residential development brings in a lot more property taxes compared to commercial development.

Ms. Russell Slack thanked the applicant for bringing this application forward so this site does not have to remain empty for too long.

Ms. Weeks asked who the other tenants are going to be. Mr. Glantz stated they would all be retail but will not compete but work well with existing tenants. He stated he might be able to provide some names by the next meeting but could not guaranty that would happen. Ms. Weeks asked about the timeline for this project. Mr. Glantz stated the plan is to demolish the building by winter, begin construction in the spring and provide occupancy by October 2016.

VI. **Withdrawn Application**

1. **S-03-15 – 383/0 Chapman Road – Boundary Line Adjustment – Withdrawal letter**

Ms. Weeks read into the record a letter from David Bergeron withdrawing this application. Mr. Lamb explained this item raised a lot of questions with respect to the Zoning Board decision. The applicant went back to see if they could make another arrangement and create a location for their house site. However, they were not able to do so.

A motion was made by Douglas Barrett that the Planning Board accept the withdrawal of this application. The motion was seconded by Andrew Bohannon and was unanimously approved.

VII. **Planning Director Reports - none**

VIII. **Upcoming dates of interest – November 2015**

Planning Board Meeting – Monday, November 23, 6:30 PM

Planning Board Steering Committee – Tuesday, November 10, 5:00 PM

Joint PB/PLD – Monday, November 9, 6:30 PM

Planning Board Site Visits – October 21, 2015, 8:00 PM

On a unanimous vote, the meeting adjourned at 9:55 PM.

Respectfully submitted,
Krishni Pahl
Minute Taker
Reviewed by: Rhett Lamb, Planning Director
Edits, Lee Langella