

**CITY OF KEENE
NEW HAMPSHIRE**

PLANNING BOARD
SPECIAL MEETING MINUTES

Monday, April 11, 2016

5:30 PM

Council Chambers

Members Present

Gary Spykman, Chairman
Nathaniel Stout, Vice-Chair
Mayor Kendall Lane
Douglas Barrett
James Duffy
Andrew Bohannon
Chris Cusack
Councilor George Hansel

Staff

Rhett Lamb, Planning Director
Tara Kessler, Planner

Members Not Present

Christine Weeks
Tammy Adams
Pamela Russell Slack

I. Call to order – Roll Call

Chair Spykman called the meeting to order at 5:43 PM and a roll call was taken.

II. Continued Public Hearings

1. SPR-01-16 – 17 Washington Street – Site Plan - Applicant, Igor Monteiro, on behalf of owner, MDP Development LLC, is proposing to use the recreation field at 17 Washington Street for a youth soccer program. The applicant is seeking a waiver from the Planning Board’s Development Standard #10 Lighting (Tax Parcel #017-07-007).

Public Hearing

Attorney JR Davis of Sheldon, Davis, Wells & Hockensmith addressed the Board on behalf of the applicant. Mr. Davis stated he was before the Board today to request approval of a site plan for use of the former Middle School field for organized athletic activities. He stated his client’s proposal is to bring these fields back to standard and keep up with the maintenance. He felt the applicant’s program would contribute to the youth soccer program in this region. Mr. Davis further stated there have already been repairs made to the exterior fence.

Mr. Davis stated the applicant was just before the Zoning Board of Adjustment which granted a special exception with two conditions attached. The first condition is whatever necessary protection or other requirement subject to the approval from the Keene Fire Department for two above ground LP tanks located at the northeast corner of the field. The second condition is that the use of the soccer fields will end at 9:30 pm on weekdays and 10 pm on weekends. Mr. Davis stated the applicant has no issue with these conditions.

As far as the LP tanks, Mr. Davis stated his client is willing to place fencing around these according to specifications provided by the Fire Department. Attorney Davis also referred to the temporary dumpster located at the rear but these will be out of sight. There will also be four temporary lighting devices located on the field fueled by diesel. These lights will only be turned on when there is a need for it and as much as possible the applicant will use shielding on these fixtures. The only purpose of this lighting is to light the field. Attorney Davis indicated the Board also has in its packet, specifications from the manufacturer as to the general design of the lighting as well as the sound. He noted the sound level at the property line is less than city standard. In closing, Mr. Davis stated he felt this was an appropriate use in an appropriate facility for something that is desperately needed in the City of Keene.

The Chairman asked for staff comment next. Planner, Tara Kessler reminded the Board that she had provided a staff report at the last meeting; the applicant is seeking a waiver from the lighting standards and stated as she had indicated last month the City's development standards don't address this type of lighting. She noted even though the applicant has said they would shield the fixtures there is a likelihood the bulbs will still be visible.

Regarding Noise – Ms. Kessler said the standard is 70 decibels at the property line and the generators being proposed for this site fall under this standard. She did not feel noise from this source should be an issue. She said noise from children playing soccer does fall within the Board's standards.

Ms. Kessler stated the dumpster will be sufficiently shielded from public right of way as it will be located in the alcove behind the building. The applicant has also agreed to fence in the propane tanks but according to the condition from the Zoning Board the Fire Department would provide feedback on this item.

With respect to traffic, the applicant is working with the City to procure a license to cross over the City-owned parking lot that is in between the Middle School lot that is adjacent to Spring Street and the lower parking lot adjacent to the east side of the field. Ms. Kessler stated she did not think this traffic pattern should cause the need for a traffic study. The applicant has stated there could be about 50 to 60 vehicles per night.

The Chair then asked for public comment.

Mr. William Beauregard who has his office at 57 Washington Street stated he is generally in favor of this proposal and agreed it was an exciting project for the City. Mr. Beauregard stated the concerns he has are with lights and noise. He noted it was important to keep in mind even though the use was similar when this field was used by the Middle School those uses ended at dusk.

Mr. Beauregard referred to the Board's standard #7 on noise and stated his concern is the noise from the generator reverberating off the multi-story brick buildings. He explained that this parking lot is the highest point on Spring Street. He referred to the notation on the plan which says "City of Keene Parking" the building right across from here is one of his buildings and is concerned about the lighting shining onto this property. Where it says "Parking" is a lot the School District developed a number of years ago and as an exempt governmental entity there was a parking lot constructed behind this building. He stated there is nearly an 11-foot drop from that parking lot and his building is about 30 feet from that parking lot.

With respect to standard #8 – screening, when the School District constructed this property no approval was obtained from the Planning Board – Mr. Beauregard noted the parking lot is six feet from his property with no screening. Mr. Beauregard stated the applicant is planning on using this property late into the fall when it starts getting dark by 4:30 pm so headlights shining onto his property are very likely.

With respect to standard 10, lighting – the applicant has indicated they would try to contain the light on site. Mr. Beauregard pointed out this is a fairly tight residential neighborhood to the east and light shining onto his property is a concern.

Regarding Standard 12 – traffic, Mr. Beauregard stated it has been indicated there could be approximately 50 vehicles at this site and wanted to be sure the applicant is going to be able to adequately accommodate this parking on site. He stated this part of Keene has parking issues and wanted to make sure no-one is using his lot. In closing, Mr. Beauregard stated he hoped the Planning Board would use its discretion when reviewing this application to make sure the impact on the neighborhood is minimum.

Vice-Chair Stout asked whether there was any type of screening Mr. Beauregard could recommend. Mr. Beauregard stated the Board has typically requested some type of arborvitae which acts as a sound as well as a light buffer. Vice-Chair Stout added this is an issue the City created and asked what type of arborvitae should be considered. Mr. Beauregard stated to shield vehicle lighting, four to five feet should be sufficient. Mr. Beauregard stated it was the School District who added this parking lot and if a private developer had proposed this lot they would have been required to add proper screening. At that time this was not an issue as school activities ended well before dark but this applicant is talking about going until 10 pm which is a concern to him.

Mr. Bob Beauregard of 47 Spring Street stated his issue is with the time frame. He stated his tenants work different shifts and they shouldn't have to listen to generators. He felt the Board should restrict the time for when this lights and noise can be on and suggested 9 pm as a time to end activities. Mr. Beauregard also referred to exhaust fumes and in the past there have been issues with diesel fumes coming from this site. He added his understanding is that these are similar to emergency generators used on the interstate for paving at night. It has also not been addressed how these generators are going to be refueled.

Mr. Beauregard stated he has no issue with the soccer program but does have problem with noise, lights and generators.

Mr. Davis in response to abutter comments, stated when considering the issue of noise and light it is important to keep in mind these are existing parking lots and did not feel the Board could impose conditions on an already permitted use. Mr. Davis stated Mr. William Beauregard had noted his building is about 30 feet from the edge of the parking lot which means any bleed over lighting should be minimum if any at all. Same would be true for the issues raised by Mr. Bob Beauregard as well. He further stated that these are not emergency generators but are portable generators for use with the proposed light source.

With reference to the noise issue, the design standard is to make sure, the noise complies with City Standards and the applicant does. Mr. Davis went on to say the generators will not abut the neighboring property. As a result felt there should be no requirement to provide additional screening or buffering. To the extent the Board feels there should be some type of buffering, this

parking lot is owned by the City and the applicant cannot add any buffering here but felt the applicant could perhaps add some temporary vinyl banners on the fencing.

Mr. Davis went on to say that Mr. Bob Beaugard had talked about fumes from generators that had come on to this property when the school district used this lot for loading and unloading of supplies but added this is not a parking lot they will be locating their generators on; this will be a lot where drop off or parking happens. As far as the number of parking spaces, even if the applicant does not get a license to park on the City lot, there are already 50 spots on the lot which comes with this lease.

Mr. Bohannon asked whether the parking in front of the building on Washington Street could be used by the applicant. Mr. Davis stated this was not part of the leased premises. Mr. Bohannon asked whether lighting will be used every weekend. Mr. Davis stated the lights will be used when there is a practice or a game in the evenings. Applicant, Igor Monteiro stated based on the scheduled the lighting would not be used on the weekends except on a rare occasion.

Mr. Peter Bradshaw of Greenbriar Road stated in the past the Board has been very careful about not permitting headlights onto residential properties. He stated the company he works for owns residential properties on the other side of Roxbury Court which abuts Mr. Beaugard's property. He stated headlights late at night will travel all the way across and affect second floor living areas. There are seven residential properties that abut this property. Mr. Bradshaw stated he is not opposed to this program and agreed it was a great opportunity for the City but headlights on someone's property late at night can be a problem and felt the Board needs to make sure that issue is properly addressed.

Mr. William Beaugard referred to the plan where the applicant is proposing the generators to be located and immediately to the east is where the residential properties are located. He asked why the applicant needs to use generators and why the applicant could not power these generators with help from public service. To echo what Mr. Bradshaw said, but for the fact the School District placed this parking lot at this location, previous Planning Boards would have insisted on screening so there is no impact to residential properties.

With no further comments, the Chair closed the public hearing.

Dr. Cusack noted this is a city-owned fence and asked what could be located here for screening. Mr. Lamb stated this was not a city-owned fence, it is privately owned by the current owner and it would be up to the Board to determine the impact of lighting. In the past the Board has chosen vegetative buffers. However, this is a temporary use and this is also something for the Board to consider when considering screening.

Chair Spykman stated on the issue of lighting and screening, he felt they are talking about two different things with reference to lighting; lighting on the field and vehicle lights and felt this should be addressed independently.

Mayor Lane felt one way to address the lighting issue would be to place a time limit and the issue with lights would be a concern once day light savings ends in the fall and when it starts getting dark earlier. He felt it would be prudent to address this issue by moving up the time limit earlier than what was proposed by the Zoning Board - 9 pm on the weekends and 8:30 pm on weekdays. Mr. Lamb added daylight savings won't happen until November 6th which would be close to the end of their season.

Mr. Duffy felt it was generous of the applicant to offer to locate banners on the fencing to address the lighting issue. As far as the noise was concerned, Keene's noise ordinance doesn't go into effect until about 11:30 pm and does understand the concern for people living in this area. He felt there is a good chance games won't end that late as indicated by the applicant. He did not feel the applicant's request was unreasonable and would support this proposal. Mr. Duffy felt this might be an inconvenience to some but not intrusive.

Mayor Lane felt the suggestion with banners on the fence was a good solution, but the applicant does not own the fence it is owned by the abutter and this would be a question for the abutter. Mr. Duffy stated even if a banner cannot be located he would still be inclined to vote in favor of this proposal. Vice-Chair Stout felt the Board should not ignore the concerns raised by the applicant and felt it was prudent to inform the City or the school district that this parking lot could use some type of screening to prevent lighting not only by this activity but other activities as well. He asked if a letter of some sort would be prudent. Mr. Lamb stated this site is no longer owned by the school district it is now owned by MDP Properties. Vice-Chair Stout clarified when this property was owned by the school district it was not subject to Board standards and the property was then sold as a sub-standard property and asked whether this is what happened here. Mr. Lamb agreed the school district is not subject to Planning Board standards and it was not subject to the standards a private developer would be held to.

Mr. Barrett stated he would like to ask the applicant what effect the time proposed by the Mayor would have on their program.

The Chairman reopened the public hearing to hear from the applicant.

Mr. Davis stated he has not performed any title search pertaining to this application but in talking to Mr. William Beauregard, Mr. Beauregard does not believe he owns the fence located easterly of the parking lot and thinks it is owned by the current owner of the former Middle School. Mr. Davis stated his client believes this fence belongs to the landlord and is willing to locate temporary vinyl banners on the fencing on the easterly portion of the parking area. The banners would be about 3 ½ feet to 4 feet high with any lettering facing away from the public right of way.

The Chairman closed the public hearing again.

Mr. Lamb noted this fence is about 100 feet long so the banner will have to cover a large area and wanted to make sure the entire length was intended to be covered. Mr. Duffy felt the applicant was aware of the length and also felt it was a generous offer from the applicant He also added the majority of activity will take place earlier in the day.

Vice-Chair Stout felt the applicant is on record indicating his willingness to locate a banner on the fence and hence did not feel it was necessary to include this as a condition of approval.

Board Discussion and Action

A motion was made by Mayor Kendall Lane that the Planning Board approve SPR-01-16-17 as shown on the site plan, "Proposed Conditions Plan," dated January 25, 2016, drawn by Igor Monteiro, and the request for a waiver from Development Standard #10 Lighting, with the following conditions:

1. Prior to signature by Planning Board Chair, Applicant's signature on plan.

2. Demonstrate receipt of appropriate permission to cross City property.
3. The fence on the east side of the parking lot adjacent to the east side of the recreation field be temporarily screened by vinyl banners.

The motion was seconded by James Duffy

A motion was made by Vice-Chair Stout to amend the motion to delete the third condition. The amendment was seconded by James Duffy.

Vice-Chair Stout stated he agrees there needs to be some type of screening but did not feel it was fair to apply this type of a condition on a temporary use. He also did not feel a banner will be an attractive device but added even if the amendment did not pass he will still support the original motion.

Mr. Duffy stated he does not support the amendment because the applicant has offered to locate this banner and felt the applicant is well aware of the length of the fence. He added he would support this application even without the screening.

The amendment failed on a 1-7 vote with Vice-Chair Stout voting in favor.

Mr. Duffy asked whether the banners would conflict with the City's sign code. Mayor Lane stated as long as the writing on the banner faces the parking lot, it would be acceptable.

The original motion carried on a unanimous vote.

The meeting adjourned at 6:35 PM.

Respectfully submitted,

Krishni Pahl
Minute Taker

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