

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, January 22, 2020

7:00 PM

Council Chambers A

Members Present:

Kate M. Bosley, Chair
Mitchell H. Greenwald, Vice-Chair
Philip M. Jones
Gladys Johnsen

Members Not Present:

Catherine Workman

Staff Present:

Med Kopczynski, Economic Development
Director
Rhett Lamb, Community Development
Director
Heather Fitz-Simon, Administrative
Assistant, City Clerk's Office

Chair Bosley called the meeting to order at 7:00 PM and explained the procedures of the meeting.

1) The Colonial Theatre – Request to Use City Property

Chair Bosley asked the petitioner to address their communication. Greg Moore stated that his request is for use of Commercial Street parking lot spaces, for events. He continued that the Colonial Theatre is trying to be as accurate as possible in terms of the number of spaces they need to use, from now until early April.

Chair Bosley asked if the Colonial Theatre has made this request of the PLD Committee in the past. Mr. Moore replied yes.

Chair Bosley asked if there is information that staff would like to add.

Economic Development Director Med Kopczynski stated that he has not had a chance to talk with the Colonial Theatre, but there has been a little bit of conversation with other staff. He continued that it would be helpful for the applicant to give more detail for the record. The PLD Committee has the dates and number of spaces the Colonial Theatre is requesting, but they do not have information about the times or the types of vehicles. Normally they would put traffic cones out to delineate the allowed space, so it would help to know the types of vehicles.

Mr. Kopczynski continued that if the City Council takes action on this it would be in conjunction with Resolution R-2015-11, relating to free parking, which talks about reasons to suspend parking rules. In this case, the rules they would be suspending would be the meter charges.

Chair Bosley asked if they have had that level of detail in the past. Mr. Kopczynski replied that he has not dealt with this particular application in the past. He continued that it has been several years since the Colonial Theatre has come to the City Council with this request.

Councilor Jones asked if this is the same issue as the request to move the trash receptacle onto City property. Mr. Kopczynski replied no, this is totally different. He continued that this is for specific dates and events. The applicant is asking that they not have to pay a fee for parking. Mr. Moore replied that they are asking for meter fees to be provided free of charge.

Chair Bosley asked if Mr. Moore has the additional details that Mr. Kopczynski is looking for. Mr. Moore replied that he can answer most of the questions. He continued that he is still coordinating with a lot of these groups, which are specific date-associated.

Mr. Kopczynski stated that the PLD Committee can put conditions into the motion they make, and these blanks can be filled in later. He continued that the details are needed at the staff level more so than at the Council level.

Councilor Greenwald asked if this is the same as has been done for numerous years, for the busses and trucks and such. Mr. Moore replied yes. Councilor Greenwald replied that if staff wants more detail it can be provided before the next Council meeting, but basically, this is the same as what the City Council has granted to the Colonial Theatre for numerous years. Mr. Moore replied yes, the Colonial Theatre could provide information about the types of vehicles/numbers as soon as possible.

Chair Bosley asked for further comment.

Community Development Director Rhett Lamb stated that one date the Colonial Theatre is requesting is prior to the meeting at which the City Council would approve any motion this committee passes. He asked how this will be addressed. Mr. Kopczynski replied that the Colonial Theatre would have to come talk to the Parking staff, and it is his understanding that that communication is happening. Chair Bosley replied yes, her understanding is that that communication was happening administratively.

Chair Bosley asked for comments from the public. Hearing none, she asked for a motion.

Councilor Greenwald made the following motion, which was seconded by Councilor Johnsen.

On a vote of 4-0, the Planning, Licenses, and Development Committee recommended that the City Council grant permission, subject to details to be determined by City staff, to the Colonial Theatre for use of up to 28 parking spaces in the Commercial Street Parking Lot on the days identified in their letter of January 6, 2020, subject to the signing of a revocable license and indemnification agreement and the submittal of a certificate of liability insurance in the amount of \$1,000,000 listing the City of Keene as an additional insured. There shall be no blocking of fire lanes and parking spaces already occupied. In addition, the petitioner is granted use of the requested parking spaces free of charge under the provisions of the Free Parking Policy.

Chair Bosley thanked Mr. Moore and told him that he needs to get together with City staff and get those additional details before the City Council meeting.

2) Boards and Commissions – Periodic Update – Planning Board

Chair Bosley recognized Doug Barrett, the chair of the Planning Board. Mr. Barrett stated his presentation represents the periodic update from the Planning Board that was scheduled in December, but he was unable to attend. He continued that the Planning Board is in a state of transition. It has nine members, and of those, three are the Mayor, an administrative official of the City, and a City Councilor. Keene has a new Mayor; Mayor George Hansel is now serving that role on the Planning Board, but he was previously a member as a Councilor. The new Councilor will be Michael Remy who has not been confirmed yet. They are still looking for the administrative person to join. The other six members are Keene citizens appointed by the Mayor and confirmed by the City Council. They had two members whose terms ended at the end of last year. There are two openings there. The other members are himself as Chair, Chris Cusack as Vice Chair, Pamela Russel-Slack, and Andrew Weglinski.

Mr. Barrett continued that regarding the Board's roles and duties, they are tasked with three spheres of responsibility: planning, legislative, and regulatory. From the planning point of view, the Board's role is to make sure any development in Keene follows the guidance of the Comprehensive Master Plan (CMP). The CMP was adopted in 2010 and that is the version they are still working with. The main item under the planning sphere has been working in coordination with the PLD Committee on the Building Better Together program, which also fits in the regulatory realm. The legislative role involves viewing proposed changes the Zoning ordinance to see if there is consistency with the CMP, and enacting or amending land use regulations, such as subdivisions, site plan regulations, and the Planning Board's development standards.

In the regulatory sphere, the Board's role is to review site plan applications and other applications like for subdivisions or boundary line adjustments, to make sure they meet the requirements and standards. In 2019, the Board approved nine site plans, three subdivisions, five driveways, three boundary line adjustments, and one conditional use permit. In addition, there were 19 administrative approvals, which are applications handled by staff because they do not rise to the level where it is necessary for a public hearing. As a matter of course, if there is some question from staff about whether to handle certain applications administratively or have the Planning Board weigh in, staff has consulted him and asked his opinion, and generally he agrees with staff because they make good recommendations.

Mr. Barrett continued that regarding regulation changes in 2019, there were several items in the year. The Joint Committee of the Planning Board and the PLD Committee received two applications to amend the Zoning Ordinance. One involved changing a small area at the City-owned parcel of 560 Main Street – previously it had been designated as Commerce to Industrial,

and the entire parcel is now in the Industrial District. The second is the introduction of an ordinance to introduce a number of congregate living social service uses into the Zoning ordinance and establish a process for reviewing and allowing these uses to occur. This ordinance is in the public workshop phase, and the next public workshop on this topic will be held on March 9.

Mr. Barrett continued that the final item he wants to share is that under the regulatory sphere and also in the planning realm. The Planning Board has been continuing to work with City staff in finalizing work on the Building Better Together project, which involves the reorganization of the City's land use regulations, including the Zoning ordinance and Planning Board regulations, into one document called the Land Development Code. It also involves the development of a downtown form based zoning district to replace some of the existing downtown zoning districts. City staff anticipate that a draft of this Land Development Code will be given in early spring of this year.

Chair Bosley thanked Mr. Barrett. She continued that many City Council members know what the Joint Committee has been working on, but they do have some new members, so it is great to get that information.

Councilor Greenwald asked if Mr. Barrett could explain the difference between the Zoning Board of Adjustment (ZBA) and the Planning Board. Mr. Barrett replied that when someone comes to the Planning Board with a site plan application, he sees the Board's role as a jury. He continued that the petitioner presents the proposed project and there are 19 standards the Planning Board has to apply, and the applicant has to show that their proposal meets each of the 19 standards. The Planning Board does not decide if they "like" the project or if it is a "good" project; they have to be fair and impartial and see if it meets the 19 standards. In a sense it is a very narrow role. Regarding what the ZBA does, just as the Planning Board has to follow the Planning Board standards, the ZBA is concerned with the City's Zoning ordinances and making sure projects would fit into those and follow those.

Mr. Lamb stated that Mr. Barrett has identified the difference between the Planning Board standards, which apply to new development, and the Zoning ordinance, which applies generally across the city and establishes the basic rules about density, the uses of property, height of buildings, and those sorts of things. He continued that when folks find their property is unique and special circumstances apply they can apply to the ZBA for relief from those standards, whether in the form of a variance or a special exception. That is what the ZBA is for. The ZBA also addresses appeals of decisions that are made by the Zoning Administrator if they are unsatisfied with an answer.

Councilor Greenwald stated that thinking historically, one of the greatest victories/challenges that faced the Planning Board was the Konover Mall and how that was finally worked around into the great project that exists now, with the Home Depot, Price Chopper, and so on and so forth. They found the right size, the right landscaping, the right colors, and so on and so forth. It

was a long and torturous process for Planning Board members but it turned out to be a great project. The group does great work and he thanks them.

Councilor Jones stated that they appreciate the work Mr. Barrett and the Planning Board does. He continued that one time they did an Earth Excavation Ordinance - they worked on it for six months and then decided not to do it. Mr. Lamb replied that he thinks they did adopt an ordinance out of that. He continued that there have been some exercises where they chose not to proceed after studying and evaluating everything.

Councilor Jones stated that he has never been a fan of the Joint Committee, and has talked about that with staff. He continued that it is just that they do not know a better way. There are only two votes taken: one is the Planning Board's vote, which is "Does it fit in with the CMP?" and one is from the PLD Committee, which is, "Should the Mayor set a public hearing?" Even if both votes are "no," the petitioner still has a right to a public hearing, and it still goes on to have a public hearing, so those votes are just there to give them something to say. One improvement he would like to see: when the Planning Board does that vote, it would help if they could give the reasons *why* the application goes along with the CMP. This would help people reading the meeting minutes. When the report goes to the City Council it does not tell them why the Planning Board voted as it did. Staff gives reasons, but it would be good to hear the reasons from the Planning Board about why something is compliant with the CMP. This would be a good change and increase transparency.

Mr. Barrett replied that he appreciates that comment and there is value in what Councilor Jones is saying. He continued that there is a different point of view from the Planning Board in the purpose and role of the Joint Committee. As he stated earlier, the Planning Board operates in three spheres – planning, legislative, and regulatory. In the Planning Board meetings, most of what they focus on is regulatory, like people's proposed projects that need to be evaluated by the 19 standards. From the Planning Board point of view, the Joint Committee gives the opportunity to step back a bit and get that higher level view and operate in the planning sphere, and think about the CMP and not just the 19 standards. Yes, Councilor Jones is right that when they have that vote, it is about whether the proposed change is consistent with the CMP and it is only advisory.

Chair Bosley stated that in her understanding of trying to get comfortable and familiar with how the Joint Committee works, they have heard from Councilor Greenwald that some projects take a very long time, as do the Zoning changes, and they accept a lot of public input. If the PLD Committee and the Planning Board were not working in conjunction together, those topics would be going back and forth to get these 'yes' votes to move it forward. So, if they can sit down in a room together once a month it is valuable to both to be on the same page about the direction they are trying to go in. Thus, she understands the time they put in for those meetings. The time is valuable. The public gives a lot of input there.

Chair Bosley asked if the committee or public had any further comments. Hearing none, she asked for a motion.

Councilor Jones made the following motion, which was seconded by Councilor Greenwald.

On a vote of 4-0, the Planning, Licenses, and Development Committee accepted the Planning Board's report as informational.

There being no further business, Chair Bosley adjourned the meeting at 7:26 PM.

Respectfully submitted by,
Britta Reida, Minute Taker