

City of Keene
New Hampshire

MINOR PROJECT REVIEW COMMITTEE
MEETING MINUTES

Thursday, March 2, 2023

10:00 AM

**Council Chambers,
City Hall**

Members Present:

Jesse Rounds, Chair
Med Kopczynski, Vice Chair
Don Lussier
Don Farquhar
Mari Brunner, Alternate
Mike Hagan, Alternate

Other Staff Present:

Megan Fortson, Planning Technician

Members Not Present:

Steve Dumont, Alternate
John Rogers
Kürt Blomquist, Alternate

I. Call to Order – Roll call

Chair Rounds called the meeting to order at 10:00 AM. Roll call was conducted. Ms. Brunner stated that since she and Mr. Hagan are both alternates, one should be a voting member today, and she suggests Mr. Hagan as a replacement for John Rogers. Chair Rounds agreed and stated that Mr. Hagan is a voting member today.

II. Minutes of Previous Meetings – January 26, 2023 and February 2, 2023

Mr. Kopczynski made a motion to approve the meeting minutes of January 26, 2023 and February 2, 2023. Mr. Hagan seconded the motion, which passed by unanimous vote.

III. Final Vote on Conditional Approvals

Ms. Fortson stated that there are no final votes on conditional approvals for today's meeting.

IV. Public Hearing

- 1. SPR-06-19, Modification #1 – Site Plan – 20 Manchester St. – Applicant and owner 560 Main Street LLC proposes to lease a portion of the Froling site at 20 Manchester St. (TMP #114-012-000) to Phil's Tree Service for equipment and truck storage,**

create a second open yard rental space, construct an addition ~3,750 sf in size to an already approved 10,000 sf of building, and make minor modifications to the landscaping and parking. The property is 9.88 ac and is located in the Industrial District.

Chair Rounds introduced SPR-06-19. He asked staff to report on the application's completeness.

Ms. Fortson stated that the applicant has not requested any exemptions as part of this application. She continued that staff recommends the committee accept the application as complete.

Chief Farquhar made a motion to accept the application as complete. Mr. Hagan seconded the motion, which passed by unanimous vote.

Chair Rounds asked to hear from the applicant.

Ethen Waterman of Froling Energy stated that Froling Energy is looking to improve and move forward with Phase 2 of their project. He explained that this phase will consist of constructing the smaller office/truck shop building on the southwestern portion of the site, which was already approved as part of the original site plan application for this property. He explained that they are looking to add a three-sided lean-to on one side of the building to house their indoor wood processing equipment. The building itself will still have the same layout. One side will be a truck shop and one side will be an office. They will switch those left to right to make the office more centrally located, but it is the same size as before. The drainage in the layout has been adjusted to accommodate that addition. In addition to this, a couple planting species and planting locations have changed. They will put rhododendrons in to make it more hedge-like. Previously firs were proposed to be installed in the front area of the building toward the right to provide more cover. Tom Weller would be the architect on record. On the other side of the street, the other change that Froling is looking for relates to parking. Their parking was going to be parallel to the curb on the left side of the building, and they are looking to make those head-on parking spaces instead, for ease of access.

Mr. Waterman continued that he believes that is all he has for changes. He asked what the committee wants to know.

Ms. Brunner stated that Mr. Waterman mentioned rhododendrons. She continued that the plan the committee has in its agenda packet shows emerald green arborvitae which have a mature height of 10-15'. She asked Mr. Waterman to clarify what Froling proposes putting in for screening. She clarified that she is asking about the new landscaping, not the previous landscaping that the Planning Board (PB) approved. Mr. Waterman replied that he believes it would be a mix of both; he has to look. He continued that on the right front side of the proposed new building they will put in some more rhododendron cover. Chair Rounds stated that the previous conversation was about the arborvitae on the west side of the old building. Mr. Waterman replied that there is still some going there as well.

Ms. Brunner stated that she has no concerns about the addition and thinks it fits in well with the architecture of the building that was approved by the PB. She continued that she thinks the change to the screening around the old building makes a lot of sense. Balsam fir was proposed before, and she thinks the change to arborvitae would actually provide a better screening for the residential area on Manchester St. She is in favor of those changes.

Ms. Brunner continued that she would like to hear more information about the proposed rental areas. One is proposed to be used by Phil's Tree Service and the other one does not have a user identified yet. She asked if that is correct. Mr. Waterman replied yes. Ms. Brunner asked what they expect the impervious surface coverage to be for those areas. Do they expect any, or minimal? Will they put temporary structures there? Mr. Waterman replied that the only temporary structure they would be asking for is another 12'x20' shed or something of a similar size, like a trailer, for something that cannot be stored outside. He continued that like Ms. Brunner said, Froling is not sure yet what would be in that (second rental area). It would probably be something similar to Phil's Tree Service or someone with trucks and equipment and it would be an open land use, somewhere to put the more valuable (equipment) that cannot be left out in the elements. Mr. Lussier asked if that is what is shown as an allowance for a 12'x20' office structure. Mr. Waterman replied yes. Mr. Lussier asked if they understand that if they wanted to do any paving or permanent structures, Froling would have to come back to the City for that. Mr. Waterman replied yes.

Ms. Brunner asked if Froling anticipates that any of the uses proposed in the rental areas would need any sort of lighting, or if they would generate some sort of noise that might impact surrounding (areas). Mr. Waterman replied that he does not think they propose anything that would generate excessive noise beyond what is already normal for the area with the trucks from the City, Phil's Tree Service, and Froling already going by.

Chair Rounds stated that he has a process question. He continued that regarding the proposed conditions plan, he notes that neither the Phil's Tree Services rental area nor the proposed rental area are drawn on it. He asked if they should be. Ms. Brunner replied that one of the plan sheets is the rental area exhibit. She continued that it is not on the overall site plan. It makes sense, to her, for that to be included on the overall site plan. That is a simple condition of approval they could place.

Mr. Lussier stated that he sees where SVE circled the areas that are changed and put in revision comments, which was very helpful. He continued that however, the utility plan, sheet C-5, appears to show that the sewer line will all be re-laid as part of this project. He asked if Mr. Waterman can confirm or deny that the sewer included for Phase One needs to be replaced. Mr. Waterman replied that he cannot confirm or deny that today, but he can get that information. Mr. Lussier replied that would be great.

Mr. Lussier continued that the second issue is that the water line for Phase One and Phase 2 shows that they have the domestic service coming off of the fire service. That is not allowed. On the

Phase One side, the two-inch domestic goes back to the main, which is in the City's right-of-way. The same thing will have to happen for Phase Two; the domestic service will need to be completely separate from the fire service. He would like to see the utility plans updated to reflect that. Mr. Waterman agreed.

Mr. Lussier asked if it is correct that (this area) will be a vehicle maintenance garage. Mr. Waterman replied yes. Mr. Lussier replied that he sees they already have the oil and water separator. He reminded Mr. Waterman that Froling will need to talk to the City's Industrial Pretreatment Coordinator to get a permit for the new discharge, because it does need to go through the treatment process.

Mr. Lussier stated that the City's records show that the sewer line was stubbed out for the future Phase 2 expansion. He continued that if that is the case, then the utility plan should show something coming into that stub, not replacing the whole thing. This question is more for SVE to answer, but it is not clear to him in his reading of the regulations, whether this would qualify as a sewer connection that requires a State permit. The State requires review by the NH Department of Environmental Services (NHDES), if they need to connect to the existing system at a sewer manhole. He does not know if the State will consider this a new connection at a sewer manhole and thinks this should be discussed with SVE. Mr. Waterman agreed.

Mr. Hagan asked if Froling will be installing curbing or wheel stops at the head of the parking spaces in front of the building. He continued by stating that they previously showed curbing with a sidewalk and now they are just showing parking in front of the building and will need to provide curb stops. Mr. Waterman asked if he means on the left side. Mr. Hagan replied on the Phase 2 building. Mr. Waterman replied that he does not believe there will be any curbing there. Mr. Hagan replied that they need to update the plans to provide a vehicle stop barrier of some sort. Mr. Waterman replied yes.

Mr. Hagan asked what the overall height of the building is. Mr. Waterman replied that he does not know. Mr. Hagan replied that that comes into play with Fire Department access and ladder truck size and so on and so forth. The size of the building, and depending upon the use of that wood storage area, will also require a sprinkler system with Fire Department access on the front. Thus, they should think about where they are putting that in. Typically, a site plan shows that. The MPRC needs to see that information on the site plan.

Mr. Hagan stated that his other question is about how this has changed from what it was to what it is being used for now. Before, it was just vehicles to support the use of Froling. He asked if this is a separate entity, or if this is Froling headquarters. Mr. Waterman replied this is just Froling headquarters. Mr. Hagan replied that the floor plan shows a "showroom area." He asked what that is. Mr. Waterman replied there would probably be a couple boilers in there; the boilers Froling sells are large. He continued that they would not be running. Mr. Hagan asked if Froling would have people coming in and out for retail purchases. Mr. Waterman replied that they do such little retail that it would be more likely that a commercial person could come in and see a set-up. Yes,

there would be some in-and-out of the public, but he does not know if it would be completely open to the public or by appointment. He does not foresee people just coming in off the street to look at the showroom, but he cannot say for sure.

Mr. Hagan replied that in order to make sure Froling is falling within the permitted uses in that zone and that it is an accessory use to the main, the committee definitely wants a letter or description of what the intended uses are. He continued that they could do this after the fact, but something to think about now is that depending on the area and size, they might need a second means of egress off the second floor. In order to determine that, the City needs to know the overall use, so Froling is not coming back to the committee later on to add that. They could probably add it somewhere, but the current floor plan that Froling provided causes him to question – you cannot exit from the second floor through the retail area, so getting directly to the outside, with the layout Froling is currently proposing, is something he cautions them about.

Mr. Kopczynski stated that getting a letter to clarify the intended uses in the building is probably not problematic in any way. It is his understanding that Froling services larger scale industrial clients, including schools, banks, and so on and so forth. He continued that he does not see this as being retail by any means, and probably not even for residential consumers, but there is the possibility that Froling could change their product line. Mr. Waterman replied that Froling does some residential sales, but on a very minimal scale.

Mr. Hagan replied that the City has issued a bunch of residential boiler permits. That is why he asks (whether there could be) someone wanting to come in and change out their boiler, and if this is going to become a more intense use. It can be accessory to the main, but they have to limit the size on that, through the zoning, and that is why clarification would be helpful. Mr. Waterman agreed and stated that Froling can get that clarification to them.

Chief Farquhar asked if Froling's wood processing involves taking raw trees and making them into solid fuel. Mr. Waterman replied yes. Chief Farquhar replied that is important, because that manufacturing/processing of trees into solid fuel invokes Fire Code, as far as dust control. Those type of processes are part of the H-2 Hazard Class. The committee needs to have a good understanding of exactly the scale of the operation and what the process would look like, to make sure that at the time of the building permit application, the application properly contemplates and addresses the unique hazard class of that process. Mr. Waterman agreed.

Mr. Lussier stated that he wants to put something on the record that he does not think is an issue in any way but is something everyone should be aware of: access to this site is across an easement on the Cheshire Tire property. Mr. Waterman replied yes. Mr. Lussier replied that the City had this easement and Froling bought it as part of buying the property. He does not know, not being a lawyer, but Froling might want to check to make sure that easement allows not just Froling's operations and workers to pass and re-pass, but also third party people to do the same.

Ms. Brunner replied that Planning staff asked for documentation about that, and she believes that Mr. Froling has documented to the satisfaction of City staff that they do have the right to have assignees pass and re-pass over that easement. She continued that in her understanding, this issue is fully addressed.

Chair Rounds asked if committee members had further questions. Hearing none, he asked if any members of the public wished to speak.

Toby Tousley of 500 Washington St. stated that he does not object to this project at all, and thinks it is a good use of what is down there. He continued that he has questions about the process and the method of doing this. If he were involved in this project, he would be looking at the requirements, and what he sees is that this would tip the scale and (need to) go in front of the full Planning Board. He is not trying to stop the process, just asking questions about how the level of planning review required for a project is determined. To back up, he thinks that Keene has a history of not working with businesses very well, and he thinks this is a great way to work with this project here. He thinks the City has made some good moves with this and should continue. But if he were involved with this project, he would read the requirements [of the Land Development Code, Article 25.12, Site Plan Review] and think that he would have to go to the PB, based on the percentage. The requirements say [*“Major site plan review is required for any proposal with... additions to existing buildings or structures that are greater than*] 15% of [*the gfa of the existing principal building.*]*”* This is 37% of a building addition, which tips the scales. How would an applicant know how far they could bend those rules?

Ms. Brunner replied that the way that that threshold is written is as a percentage of the principal building on the site. She continued that thus, when looking at whether this application met the threshold for going to the PB, they looked at the additional size as a percentage of the principal building on the site, which is the wood processing facility. She cannot remember the exact percentage, but it did not meet the 15% threshold.

Mr. Tousley asked [about a potential project he heard about at the pre-submission meeting this morning]. Chair Rounds explained that pre-submission meetings are part of the Minor Project Review Committee process but are held separately, and a time for staff to just have conversations with people who are considering submitting applications.

Mr. Tousley asked how an applicant would know that s/he could possibly “bend the rules by double or even triple,” or know that they could even ask. He continued that he would just assume he had to go directly to the PB and would not even consider asking. Part of the process of making this friendly for businesses means projecting this out. And how do they make sure it does not look like the MPRC is favoring somebody for doing that over someone else?

Chair Rounds replied that someone would have to go to a pre-submission meeting, and at that meeting, staff begins to make a determination as to whether a project is big enough that it has to

go to the PB or if it can go through another process because it is smaller in scale. That investigation/inquiry is built into the process.

Chair Rounds asked if anyone else from the public wished to speak. Hearing none, he closed the public hearing and asked the committee to deliberate.

Mr. Lussier stated that he would like to include a condition in whatever motion the committee makes that the applicant submit updated utility plans to reflect the comments they have had today.

Ms. Brunner stated that although she is not a voting member today, she thinks this project is ready to approve. She continued that she did not see any red flags come up during the discussion. As she attempted to think through all of the different standards, she did not see anything that was not met. Froling has some issues to work through at the building permit phase. A potential condition of approval would be the addition of the wheel stops that Mr. Hagan brought up; potentially a letter clarifying the use of the showroom, although that may be handled through the building permit process; the updated utility plans; and updating the overall site plan to include the rental spaces. She is fine with all of those conditions but wants to hear people's thoughts on whether that letter makes sense to include as a condition with this application or if it makes more sense with the building permit process.

Mr. Lussier replied that the question is whether it would affect this body's decision on the application, in terms of what use and what fire load they end up having. He continued that he thinks it would just affect requirements of the construction, whether there is a certain fire wall between them. Chief Farquhar replied that it would also affect access. He continued that there is some concern there. Mr. Lussier replied that potentially driveways around the building would have to be modified, depending on what that is. Chief Farquhar replied yes, and depending on the scale or the processes – if it is in that H-2 classification there need to be explosion distances, which is important. Mr. Lussier replied in that case, to answer Ms. Brunner's question, he thinks it would affect the MPRC's vote and probably means it needs to get resolved before the MPRC can make a final approval.

Chair Rounds asked if the MPRC wants the letter clarifying the uses to be for the whole building, not just the showroom. Mr. Hagan replied yes. He continued that Froling added on this additional use to the building. Before, it was just going to be office and truck repair. Now they are adding another industrial process to the building, and kiln dryers, processing, dust, exhausting, and the explosion distance for an H-2 use significantly impact the need for additional access as well as distance to property lines. The City does not know what is going on in there other than wood processing. Maybe it is nothing, maybe it is more, but it requires additional review prior to approval, in his opinion.

Chief Farquhar stated that he aligns his comments with Mr. Hagan's.

Chair Rounds asked Ms. Brunner, in terms of his question about the leased spaces, whether that would be covered under a general submittal of a revised site plan, or if they should enumerate exactly what they want to see on that revised site plan. Ms. Brunner replied that she thinks it is always better for the applicant if the MPRC is very clear about exactly what they are asking for. She continued that staff has given the MPRC recommended language for a motion, and part of it says “*submittal of a revised site plan showing the location where Phil’s Tree Service will be operating on the site.*” She would amend that to say “*submittal of a revised site plan showing the rental locations on the overall site plan.*” That way the rental locations will be shown on the site plan that gets signed by the Minor Project Review Committee chair and marked as final.

Ms. Brunner stated that after hearing Mr. Hagan and Chief Farquhar’s comments, she wonders if it would make more sense for the MPRC to continue this until the next meeting. She continued that during the two-week interval they could hopefully figure out this issue. Mr. Hagan replied yes, his motion was going to be to continue this with more information. He continued that they can work with the applicant to make an informed decision and help Froling work through the process, if there are any additional things (to address). One more addition to the conditions is the need for a floodplain permit, because they are doing work in the floodplain.

Mr. Lussier asked if passing a motion to continue means the MPRC is not giving Froling conditional approval. He asked what the difference is, process-wise, between a continuance and giving a conditional approval with a final approval at the next meeting. Ms. Brunner replied that if they issue a conditional approval, all of the conditions they place have to be non-discretionary. She continued that basically, staff have to be able to look at it and be able to check off yes or no. Mr. Lussier stated that if there are site plan changes as a result of explosion differences and whatnot, that will be hard to enumerate in detail. Ms. Brunner replied yes. Mr. Lussier replied that it sounds like they will be continuing. Ms. Brunner replied that she should amend her statement slightly – they could make conditions of approval that are discretionary, but then they would have to hold a second public hearing, which requires a second notice, which is not something they encourage. Mr. Kopczynski replied that it is not business-friendly. Ms. Brunner replied yes, it is more hassle for everyone.

Mr. Kopczynski stated that he assumes they will be making a motion to continue until a date certain. Ms. Brunner replied that she suggests asking the applicant if they are able to attend the MPRC’s next meeting, March 16 at 10:00 AM. Mr. Waterman replied yes. Mr. Lussier asked if that will give the applicant enough time to resolve these questions. Mr. Waterman replied that as far as the wood processing plant, the kiln dryer, and so on and so forth, the kiln dryer will be the same. It will be an additional kiln but on the other side. He continued that he thinks he can come up with most of the answers, unless the explosion distances and such require new plans, if he understands that correctly.

Chief Farquhar replied yes, the Fire Department and the Community Development Department can meet with Mr. Waterman in the interim. He continued that they want to make sure they can get him all squared away in the two week period. Mr. Waterman replied that as long as they do

not have to redesign the plans, he does not see any problem with that. Chief Farquhar replied that he agrees; he thinks it is about a deeper understanding of the exact use and the processes. Once they have that, they can frame out what they need to get to the next step.

Mr. Hagan made a motion to continue this hearing until the next regularly scheduled meeting on March 16, 2023 at 10:00 on the second floor of City Hall, pending further information from the applicant. Mr. Lussier seconded the motion, which passed by unanimous vote.

V. Upcoming Meeting Dates

- Pre-submission Meeting – March 2, 2023 at 9:00 AM
- 1st Monthly MPRC Meeting – March 2, 2023 at 10:00 AM
- 2nd Monthly MPRC Meeting – March 16, 2023 at 10:00 AM (*if needed*)

Chair Rounds stated that the next meeting is March 16 at 10:00 AM. Ms. Fortson stated that the next MPRC meeting after that is April 6 at 10:00 AM, with the pre-submission meeting at 9:00 AM, unless it needs to be pushed to 8:30 AM if they have enough inquiries that come forward. She continued that the second MPRC meeting of the month will be April 20.

There being no further business, Chair Rounds adjourned the meeting at 10:35 AM.

Respectfully submitted by,
Britta Reida, Minute Taker

Reviewed and edited by,
Megan Fortson, Planning Technician