

**CITY OF CONCORD PLANNING BOARD**  
**April 2, 2014 MEETING**  
**(Reconvened for March 19, 2014 meeting)**

The regular monthly meeting of the City Planning Board was held on April 2, 2014, in City Hall, in the Second Floor Conference Room, at 41 Green Street, at 7:00 p.m.

Present at the meeting were Members Hicks, Foss, Smith-Meyer, Lavers, Kenison, Dolchino and Regan. City Planner Larson, Ms. Hebert, Mr. Henninger and Ms. Murray of the City's Planning Division were also present.

In the absence of Chair Drypolcher, there was a motion by Mr. Kenison to select Member Foss as Chair Pro Tem. Ms. Smith-Meyer seconded the motion. Motion carried unanimously.

At 7:00 p.m., a quorum was present and the Chair Pro Tem called the meeting to order. Chair Pro Tem Foss seated Member Kenison for Chair Drypolcher and Member Dolchino for the vacant Vice Chair seat.

**PUBLIC HEARINGS**

**Architectural Design Review Applications**

1. Applications by the following for approval of signs at the following locations under the provisions of Section 28-9-4 (f), Architectural Design Review, of the City of Concord's Code of Ordinances:

The Chair Pro Tem opened the public hearings for all the sign applications.

- a. **Application by Harold Ekstrom, on behalf of Kristin Kennedy, requesting Architectural Design Review Approval for a new hanging sign at 30A Warren Street, within the Central Business Performance (CBP) District.**

Mr. Henninger informed the Board that the ADRC recommended approval as submitted. Their only comment was that the sign was attractive.

There were no other comments or discussions.

Ms. Smith-Meyer moved to grant Architectural Design Approval for a new hanging sign at 30A Warren Street as submitted by the applicant. Mr. Lavers seconded the motion. Motion carried unanimously.

- b. **Application by Alexander J. Constant, on behalf of Constantly Pizza, requesting Architectural Design Review Approval for a new affixed roof sign at 39 S. Main Street, within the Central Business Performance (CBP) District.**

Mr. Henninger spoke to the application. He noted that the Zoning Board of Adjustment had granted variances to allow the sign as submitted and that the ADRC was concerned that the proposed sign, while an improvement over the existing signage, still blocked the second story windows. They recommended that the Constantly Pizza lettering be reduced in size to reduce the blockage of the second floor apartment windows and that the red background of the "Coca-Cola" signs be made opaque so only the white lettering would show through at night. The applicant's agent, Ted Jarvis, was present and spoke

to the Board. He stated that the applicant agreed to revise the print on the “Coca-Cola” sign elements so that they would be less prominent at night. The Planning Board expressed concern over the size of the overall sign and the blockage of the second story windows. Mr. Jarvis explained that the lettering and the square footage of the overall sign were also smaller than the existing sign. A discussion ensued about moving the brackets to lower the sign thereby eliminating the blockage of the second story windows. Mr. Jarvis indicated that this change would be acceptable.

There were no further comments or discussions.

Ms. Smith-Meyer moved to grant Architectural Design Approval for a new affixed roof sign at 39 S. Main Street as submitted by the applicant with the conditions that the sign be moved lower on the sloped roof so that the top of the lettering for Constantly Pizza will be at or below the second floor apartment window sills and that the red background of the “Coca-Cola” signs be made opaque so only the white lettering would show through at night. Ms. Dolchino seconded the motion. Motion passed unanimously.

**c. Application by Firenze Realty Assoc., LLC, on behalf of Michael’s, requesting Architectural Design Review Approval for three (3) replacement signs at 86 D’Amante Drive, within the Gateway Performance (GWP) District.**

Mr. Henninger stated that the ADRC recommended approval as submitted. He noted that Michael’s is rebranding and the company was of the opinion that they did not need to state what they sold, so the tag line “Arts & Crafts” is being removed. The Board questioned if the colors were being changed. Mr. Kevin Duggan, Metro Signs, representing Michael’s, was present and stated that the colors will remain the same as the existing sign. He also stated that the sign will be illuminated with LED lighting.

Mr. Hicks moved to grant Architectural Design Approval as recommended by the Architectural Design Review Committee for three (3) replacement signs at 86 D’Amante Drive as submitted by the applicant. Ms. Smith-Meyer seconded the motion. Motion passed unanimously.

**Subdivision Applications**

**2. Application by Interchange Development, LLC and Susan Whitney, for property located off of Whitney Road, requesting Minor Subdivision Approval for a lot line adjustment creating no new lots. (2014-0010)**

- a. Determination of Completeness**
- b. Public Hearing**
- c. Deliberations and Action on the Application**

Ms. Hebert recommended that the application be determined complete and the public hearing opened.

Mr. Kenison moved to determine the application complete. Mr. Hicks seconded the motion. Motion passed unanimously.

The Chair Pro Tem opened the public hearing.

The applicant, Laurie Rauseo, was present and addressed the Board. She stated that the proposal is to adjust the lot line between parcels known as Tax Map 6P Lot 5 and Tax Map 6P Lot 6, to annex 6.063 acres from lot 6 to lot 5. The land is located in the Urban Commercial District (CU) and the Industrial District (IN), on the easterly side of Whitney Road, southerly of Hoit Road.

Ms. Hebert explained that the application includes two waivers to the Subdivision Regulations regarding topography and the survey for the boundary of lot 6.

The Chair Pro Tem asked if members of the public had any comments or questions on the application.

There being no comments from the members of the public, the Chair Pro Tem closed the public hearing.

Mr. Lavers moved to grant a waiver to Sections 12.08(3) & 15.03(4) of the Subdivision Regulations to not provide the topographic information on the subdivision plat. Both lots meet the City's buildable land area requirement and the area of land being transferred is small.

Mr. Hicks seconded the motion. Motion passed unanimously.

Mr. Lavers moved to grant a grant a waiver to Sections 15.02(6) & 15.03(2) of Subdivision Regulations to not provide an updated survey for the boundary of lot 6. The boundary information has been shown on the plan and the applicant has submitted the 1990 boundary survey and referenced this survey on the subdivision plat. The plan provides adequate detail to clearly depict the land conveyance. The area of land to be transferred from lot 6 to lot 5 has been surveyed at an error of closure greater than 1 in 10,000 and the entire boundary of lot 5 was also recently surveyed.

Mr. Hicks seconded the motion. Motion passed unanimously.

Mr. Lavers moved to grant conditional final subdivision approval for the "Re-Subdivision Plat of Susan A. Whitney and Interchange Development, LLC" as prepared by FWS Land Surveying, PLLC subject to the following standard conditions:

1. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall revise the plat drawings to address minor corrections and omissions noted by City Staff.
2. Prior to the final plat being signed by the Planning Board Chair and Clerk, the plan shall be stamped by the wetland scientist who delineated the wetlands shown on the subdivision plat.

Mr. Regan seconded the motion. Motion passed unanimously.

**3. Application by LP Morgan & Associates, LLC, for property located at 84 Portsmouth Street, requesting Minor Subdivision Approval, to create one new residential building lot. (2014-0007)**

- a. Determination of Completeness**
- b. Public Hearing**
- c. Deliberations and Action on the Application**

Mr. Henninger recommended that the application be determined complete and the public hearing opened.

Mr. Lavers moved to determine the application complete. Mr. Kenison seconded the motion. Motion passed unanimously.

The Chair Pro Tem opened the public hearing.

Mr. Tim Bernier, representative for the applicant, spoke to the application. The purpose of the subdivision is to create two additional lots for single family residential use. The applicant is proposing to subdivide a newly created lot of 26,221 square feet into two lots of 12,771 SF and 13,450 square feet.

Lot 1 will have 151.52' of frontage on Portsmouth Street and Lot 2 will have 129.84' of frontage on East Side Drive (NH 132). A waiver has been requested to not provide the useable area rectangle with a minimum dimension of 60 feet as called for in Section 19.05(4), Useable Area Rectangle for both lots. The property is located north easterly of the intersection of Portsmouth Street with East Side Drive. The applicant conforms to the Zoning Regulations. The subdivision creating this lot was recorded on February 12, 2014. The Assessing Department has not yet assigned a new map-block-lot number for this parcel. The entire property consists of buildable land with no regulatory wetlands or steep slopes. Lot 1 has the required amount of useable land but has only 43' to 46' wide building envelope where sixty feet is required. Lot 2 has a useable land area of 4,792 SF with a width for the building envelope ranging from 60' to approximately 34'. Mr. Henninger noted that the useable land area requirement by the Board was created when it was observed that subdivision applications were being submitted in compliance with the buildable area requirement, but had little if any area left within the setbacks or buffer areas to actually construct a residence on the lot without requesting variances from the setbacks or buffer requirements.

The subdivision would add a new driveway on Eastside Drive and Portsmouth Street. The proposed driveways meet the requirements of Section 28-7-8(b), Separation of Driveways in Residential Districts, of the Zoning Ordinance.

The Chair Pro Tem asked if members of the public had any comments or questions on the application.

Ms. Sandra Dinning, 184 East Side Drive, an abutter, was present and addressed the Board with her concerns. She stated that the plans being reviewed tonight are very different than what was proposed in November. She feels that having 4 properties on that parcel would create an undesirable situation. She mentioned that many trees have already been downed on the lot, her parcel directly abuts proposed Lot 2, three of her windows face directly towards the lot and that the lot does not meet usable land standards. All of these factors create an infringement on her home. She is requesting that the Board consider denying this application.

Mr. Bernier addressed Ms. Dinning's comments. He stated that another abutter expressed concerns over the driveway and the applicant complied with those concerns and the driveway has been relocated. Mr. Bernier reiterated that the lots will have more frontage than required and that the waiver request will not change the side to side areas.

The Chair Pro Tem asked if members of the public had any other comments or questions on the application.

There being no further comments from the members of the public, the Chair Pro Tem closed the public hearing.

Member Smith-Meyer expressed concern over the removal of trees. Mr. Henninger stated that 3 street trees will be required along the frontages on the final plan. He also stated that the Board has granted waivers in the past for infill lots which meet the zoning requirements but did not fully provide the useable area rectangle. In all instances the lots were not encumbered by wetlands, floodplains or steep slopes and the property was constrained by existing streets. In those instances the Board determined that the intent of Section 19.05(4) to allow for room to construct a reasonable sized residence was demonstrated by the applicant. The Board discussed the developer's willingness to comply with the

abutter who had concerns over the driveway and the possibility of options for the land if it remained one lot.

Ms. Dinning approached the Board. Mr. Hicks made a motion to re-open the public hearing. Mr. Lavers seconded the motion. Motion passed unanimously. The Chair Pro Tem re-opened the public hearing.

Ms. Dinning stated that she did not have an opposition when the parcel was one lot but only after the subdivision. She feels too many changes are happening in a short time. She again encouraged the Board to deny the application.

Mr. Bernier expressed that the neighborhood would not support larger homes and that the prospective buyers have all expressed interest in 1700 square foot homes which are smaller than those shown on the display. The Board commented that they are charged only with the approval of the minor subdivision at this point not the design or placement of a single family house or any lot.

The Chair Pro Tem asked if members of the public had any other comments or questions on the application.

There being no further comments from the members of the public, the Chair Pro Tem closed the public hearing.

Ms. Smith-Meyer moved to grant a waiver to the City of Concord Subdivision Regulations not to provide the useable area rectangle with a minimum dimension of 60 feet as called for in Section 19.05(4), Useable Area Rectangle for Lots 1 and 2, as well to provide only 4,792 square feet of useable land area where 5,000 square feet is required for Lot 2.

Mr. Regan seconded the motion. Motion passed unanimously.

Ms. Smith-Meyer moved to grant final subdivision approval for the "Subdivision Plan prepared for L.P. Morgan & Assoc., LLC - Assessors Map 114-H, Block 2, Lot 1-3 - 84 Portsmouth Street & East Side Drive, Concord New Hampshire" subject to the following conditions:

1. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall revise the plat drawings to address the minor corrections and omissions noted by City staff.
2. Prior to the final plat being signed by the Planning Board Chair and Clerk, digital information shall be provided to the City Engineer for incorporation into the City of Concord Geographic Information System (GIS) and tax maps. The information shall be submitted in accordance with Section 12.09 of the Subdivision Regulations.
3. Traffic, recreation and school impact fees shall be assessed for any new construction contained within this approved subdivision. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The specific fees assessed are those contained in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 1, School Facilities Impact Fee per variable unit; and Table 2, Recreational Facilities Impact Fee per Variable Unit; and Table 3, Transportation Facilities Impact Fee per Variable Unit.
  - a) School Facilities – Single Family Residence
  - b) Recreational Facilities – Single Family Residence

- c) Transportation Facilities - Single Family Residence Susanne/
4. Any waiver(s) granted by the Board to be fully described in the plan notes, including article and section number(s).
  5. Prior to the final plat being signed by the Planning Board Chair and Clerk, a note shall be added to the subdivision plan requiring each lot to be provided with a turnaround for the driveway, when constructed on each lot, to allow vehicles exiting the lots to have the opportunity to reverse direction to avoid backing into either Portsmouth Street (urban collector) or East Side Drive (Minor Arterial).

Mr. Hicks seconded the motion. Motion passed unanimously.

#### **Conditional Use Permit Applications**

4. **Application by Thomas and Sandra Perry for property at 36 Snow Pond Road, requesting a Conditional Use Permit, pursuant to Article 28-4-3(d), Wetland Buffers, for the disturbance of wetland buffers for the construction of a new house. (2014-0006)**
  - a. **Determination of Completeness**
  - b. **Public Hearing**
  - c. **Deliberations and Action on the Application**

Ms. Hebert recommended that the application be determined complete and the public hearing opened.

Mr. Kenison moved to determine the application complete. Mr. Hicks seconded the motion. Motion passed unanimously.

The Chair Pro Tem opened the public hearing.

Mr. Tim Bernier, representative for the applicant, explained that the applicant has applied for a Conditional Use Permit for disturbances to a wetland buffer associated with the construction of a new single family residence at 36 Snow Pond Road. The project includes the demolition of an existing mobile home and the construction of a new house, driveway, deck and septic system.

The Chair Pro Tem asked if members of the public had any comments or questions on the application.

There being no comments from the members of the public, the Chair Pro Tem closed the public hearing.

Mr. Hicks moved to grant approval for the Conditional Use Permit of Thomas and Sandra Perry at 36 Snow Pond Road for disturbances to a wetland buffer for the construction of a new single family home, deck, driveway and septic system, as presented in the application prepared by T.F. Bernier, Inc., subject to the following standard conditions:

#### Standard Conditions

1. Prior to the issuance of a building permit for construction on the property, the limits of the wetland buffer shall be identified with the Concord Conservation Commission's wetland buffer discs to prevent future encroachments. The discs shall be placed approximately every 50 feet apart along the perimeter of the buffer.

2. Prior to the issuance of a building permit for construction on the property, the erosion control measures shown on the plan shall be installed to the satisfaction of the Planning Staff.
3. Prior to the issuance of a certificate of occupancy for the building, the site shall be inspected by Planning Staff to ensure that the encroachments were limited to only the area shown on the plan.

Ms. Dolchino seconded the motion. Motion passed unanimously.

5. **Application by Mark and Donna Fanny for property at 210 Airport Road, requesting a Conditional Use Permit, pursuant to Article 28-7-8(b), Separation of Driveways in Residential Districts, to permit a second driveway onto the property. (2014-0008)**

- a. **Determination of Completeness**
- b. **Public Hearing**
- c. **Deliberations and Action on the Application**

Ms. Hebert recommended that the application be determined complete and the public hearing opened.

Mr. Lavers moved to determine the application complete. Mr. Hicks seconded the motion. Motion passed unanimously.

The Chair Pro Tem opened the public hearing.

Ms. Hebert stated that the applicant has applied for a Conditional Use Permit to construct a second driveway at 210 Airport Road, where only one driveway would otherwise be allowed. The property contains a single family residence and has approximately 106 feet of frontage on Airport Road. There is an existing driveway on the south side of the property. The applicant has constructed a new detached garage on the north side of the house and also paved a new driveway. When the second driveway was installed, the owner was unaware this driveway was not permitted.

Mr. Mark Fanny and Ms. Donna Fanny were present to discuss the application. Mr. Fanny stated that when the permit to build the garage was obtained it was not made clear that the existing driveway needed to be removed if a new driveway was constructed to the garage. Since the drawings that were approved illustrated both driveways, he and Ms. Fanny were under the impression that the second driveway could remain. Ms. Fanny stated they received a letter from The City of Concord's Community Development Division in which the city requested the removal of one driveway. Ms. Fanny stated that the second driveway is used for excess parking and is the only access to their front door. Their sons, visitors and Ms. Fanny consistently use this driveway for parking. The Fannys expressed that removing the second driveway would cause a hardship and could depreciate the value of the house. Mr. Fanny explained that the house is unique in that the only location for the garage was at the back of the house and the garage driveway cannot also access the front of the house. They both expressed that it was not clear on the permit that they could only have one driveway. Ms. Laura Aibel, Associate Engineer, City of Concord, addressed the permit. She stated that the permit was clear about the removal of the second driveway. Ms. Hebert explained that Airport Road is a minor arterial roadway and carries a high volume of traffic. Each additional driveway creates potential conflict points for vehicles. Ms. Aibel explained that the Fannys are permitted to park on their lawn if need be but only until curbing is added along Airport Road which will prohibit that.

The Chair Pro Tem asked if members of the public had any other comments or questions.

There being no comments from the members of the public, the Chair Pro Tem closed the public hearing.

A discussion regarding the Fannys ability to utilize that space as a driveway ensued.

Ms. Smith-Meyer moved to deny the Conditional Use Permit for the construction of a second driveway at 210 Airport Road.

Mr. Kenison seconded the motion. Motion passed 5 to 1 with Mr. Lavers opposing.

### Site Plan Review

**6. Application by NAMI New Hampshire, for property located at 85 North State Street, requesting Minor Site Plan Approval and Design Review Approval for the construction of a building addition and associated site improvements. (2014-0005)**

- a. Determination of Completeness**
- b. Public Hearing**
- c. Deliberations and Action on the Application**

Mr. Henninger recommended that the application be determined complete and the public hearing opened.

Mr. Hicks moved to determine the application complete. Ms. Smith-Meyer seconded the motion. Motion passed unanimously.

The Chair Pro Tem opened the public hearing.

Mr. Henninger stated that the application involves the demolition of an existing garage and the construction of a new two story addition on the garage foundation. Each floor will consist of a total of 582 square feet of gross floor area. The original building has seen three additions over the last 130 years. The proposal involves the westernmost or newest addition. The addition will be finished with wooden clapboards and wooden trim painted to match the existing building. The roof will be grey slate line roofing shingles and the new vinyl windows will match the windows installed in the 2012 renovation. The parking lot will be restriped to provide the required number of off-street parking spaces for the existing building and the area of the addition. New and replacement landscape plantings are proposed on the west side of the parking lot adjacent to the existing two family residence. Except for the walkway for the new rear exit, no additional paving or other impervious surface is proposed.

The Chair Pro Tem asked if members of the public had any comments or questions on the application.

There being no comments from the members of the public, the Chair Pro Tem closed the public hearing.

Mr. Kenison moved to grant Architectural Design Review Approval for the two story office addition for NAMI at 85 North State Street as submitted in plan 6.1 with the condition that the proposed panels shown underneath the first floor windows will be eliminated.

Ms. Smith-Meyer seconded the motion. Motion passed unanimously.

Mr. Kenison moved to grant Conditional Site Plan Approval for the two story office addition for NAMI at 85 North State Street as submitted, subject to the following conditions:

1. Prior to the issuance of a certificate of approval by the Planning Board Chair and issuance of any building permits for construction activity on the site, approvals of construction drawings for on-site improvements shall be obtained from the Planning Division.
2. Traffic impact fees shall be assessed for any non-residential construction contained within the limits of the approved site plan. The impact fees and procedures shall be those in effect at the time of the issuance of a building permit as set forth in the City of Concord Code of Ordinances, Title IV, Subdivision Code: Chapter 29.2, Public Capital Facilities Impact Fee Ordinance. The specific fees assessed are those contained in Section 29.2.1-1 Assessment and Collection; subsection (b) Computation of the Amount of Impact Fees; Table 3, Transportation Facilities Impact Fee per Variable Unit.
  - a. Transportation Facilities - Office

Mr. Hicks seconded the motion. Motion passed unanimously.

7. **Application by Duprey Associates, LLC, on behalf of 2 Pillsbury Street LLC, requesting Major Site Plan Approval and Architectural Design Review Approval for the expansion of an existing parking lot at 46 Pillsbury Street, including lighting and landscaping. (2014-03)**
  - a. **Public Hearing**
  - b. **Deliberations and Action on the Application**

Chair Pro Tem Foss opened the public hearing and announced that the applicant requested a continuance to April 16, 2014.

Mr. Kenison made a motion to continue the application by Duprey Associates, LLC, on behalf of 2 Pillsbury Street LLC, requesting Major Site Plan Approval and Architectural Design Review Approval for the expansion of an existing parking lot at 46 Pillsbury Street, including lighting and landscaping to the April 16, 2014 Planning Board Meeting.

Mr. Lavers seconded the motion. Motion passed unanimously.

#### **REGULAR MEETING**

8. **Approval of the minutes of the February 19, 2014 Planning Board meeting.**

Mr. Hicks moved to accept the minutes of the February 19, 2014 Planning Board Meeting as written.

Ms. Smith-Meyer seconded. Motion carried unanimously. Mr. Lavers and Mr. Regan abstained since they were not present at the February 19, 2014 meeting.

9. **Consideration of amendments to Section 28-7-7, Signs of the City of Concord Zoning Ordinance related to the installation of mechanical scrolling message signs.**

Ms. Larson described the proposed amendments. The Zoning Board of Adjustment (ZBA) received a request for a variance to allow a "scroller" type sign for fuel price display on a freestanding sign at a motor vehicle fuel filling station on Manchester Street. The ZBA did not find a hardship which would require relief and suggested that legislative action may be necessary. This type of sign contains a vinyl

scroll that can scroll up or down to display a specific image in the display window. These signs are not currently permitted under the City's Sign Regulations so the variance was not granted.

Attorney FX Bruton, representing Cumberland Farms, was present. He handed out a letter addressed to the Planning Board along with sample Zoning Ordinances from the City of Portsmouth, NH and the Town of Goffstown, NH. He expressed that his client would be changing the sign once daily. A discussion ensued regarding scrolling signs. The amendment would allow changing the sign four times per day. Ms. Danielle Pacik, Deputy City Solicitor, was also present. She explained the changes to the ordinances that are proposed by the Code Division. Ms. Smith-Meyer suggested that Planning Staff talk to the Portsmouth staff to find out what is working for them. Ms. Larson agreed to prepare something for City Council and will have information available for the Planning Board by the next meeting.

Mr. Hicks made a motion to continue this item until a report from Planning Staff is received by the Planning Board. Ms. Smith-Meyer seconded the motion. Motion carried unanimously.

10. **Consideration of the draft Utility Section (XI) for the Master Plan 2030.**

Continued to April 16, 2014 meeting.

11. **Annual Organization Meeting**

- a. **Election of Chair for 2014**
- b. **Election of Vice Chair for 2014**
- c. **Designation of two representatives to the Central New Hampshire Regional Planning Commission (CNHRPC)**
- d. **Designation of a representative to the Heritage Commission**

Continued to April 16, 2014 meeting.

12. **Any other business which may legally come before the Board**

**INFORMATION**

13. **Minutes of the February 11, 2014 Design Review Committee meeting.**

- Next regular monthly meeting on Wednesday, April 16, 2014.

There being no further business to come before the Board, Mr. Kenison moved to adjourn the meeting. Mr. Hicks seconded the motion. Motion carried unanimously.

Chair Pro Tem Foss adjourned the meeting at 10:00 pm.

A TRUE RECORD ATTEST:

Nancy Larson  
Clerk