

City of Concord Planning Board
August 18, 2021
Minutes

The regular monthly meeting of the City Planning Board was held on August 18, 2021, in City Council Chambers, in the Municipal Complex, at 37 Green Street, at 7:00 p.m.

Attendees: Chairman Richard Woodfin, Vice-Chair Carol Foss, Councilor Byron Champlin, Teresa Rosenberger (Ex-Officio for City Manager), Members Susanne Smith-Meyer, Matthew Hicks, David Fox, and Jeff Santacruce.

Absent: Councilor Erle Pierce, Alternate Frank Kenison, and Alternate Chiara Dolcino.

Staff: Heather Shank (City Planner), Beth Fenstermacher (Assistant City Planner), Sam Durfee (Senior Planner), Lisa Fellows-Weaver (Administrative Specialist) and Gary Lemay (Associate City Engineer).

1. Call to Order

Chairman Woodfin called the meeting to order at 7:00 p.m.

2. Roll Call

Chairman Richard Woodfin, Vice-Chair Carol Foss, Councilor Byron Champlin, Teresa Rosenberger (Ex-Officio for City Manager), Members Susanne Smith-Meyer, Matthew Hicks, David Fox, and Jeff Santacruce.

3. Approval of Planning Board Meeting Minutes

July 21, 2021 Minutes

On a motion made by Mr. Santacruce, and seconded by Mr. Fox, the Board voted unanimously to approve the July 21, 2021, Planning Board Meeting Minutes, as written.

4. Planning Board Chair Overview

Chairman Woodfin noted that Item 9A has been postponed with no date or time certain. No other changes were made to the agenda.

5. Determination of Completeness Items by Consent

Chairman Woodfin stated that the following items will be individually addressed due to the fact that some have the Development of Regional Impact (DRI) components.

- 5A. TFMoran, on behalf of Interchange Development, requests Major Site Plan approval for a new fast food restaurant with drive through, parking, and associated site improvements at 1 Whitney Road in the Gateway Performance (GWP) District.

On a motion made by Mr. Fox, and seconded by Councilor Champlin, the Board voted unanimously to determine the application complete; determined that the project does meet the criteria for a Development of Regional Impact (DRI), per RSA 36:55, and set the Public Hearing for September 15, 2021.

- 5B. Erin Lambert, PE, on behalf of Pope Memorial SPCA of Concord-Merrimack county, requests Major Site Plan approval for a 1,970 sf building addition, new parking lot, and associated site improvements at 93-95 Silk Farm Road in the Open Space Residential (RO) District.

On a motion made by Ms. Smith-Meyer, and seconded by Ms. Foss, the Board voted unanimously to determine the application complete; determined that the project does not meet the criteria for a Development of Regional Impact (DRI), per RSA 36:55, and set the Public Hearing for September 15, 2021.

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- 5C. McCourt Engineering Associates, PLLC, on behalf of Pitco Frialator, LLC, requests Major Site Plan approval for the construction of a 356,224 sf manufacturing facility and associated site improvements, and Conditional Use Permit approval for the expansion of impervious surfaces in the Aquifer Protection District, at 15 Integra City of Concord Page 1 Printed on 8/13/2021 Planning Board Agenda August 18, 2021 Drive in the Industrial (IN), Office Park Performance (OFF), and Residential Open Space (RO) Districts.

On a motion made by Mr. Santacruce, and seconded by Ms. Foss, the Board voted unanimously to determine the application complete; determined that the project does meet the criteria for a Development of Regional Impact (DRI), per RSA 36:55, and set the Public Hearing for September 15, 2021.

- 5D. Greenman-Pedersen Inc, on behalf of Wheelabrator Concord Co., requesting Major Site Plan approval for paving of new parking area and a Conditional Use Permit to allow for the payment in lieu of planting all of the required trees at 11 Whitney Road in the Industrial (IN) District.

On a motion made by Councilor Champlin, and seconded by Ms. Foss, the Board voted unanimously to determine the application complete; determined that the project does not meet the criteria for a Development of Regional Impact (DRI), per RSA 36:55, and set the Public Hearing for September 15, 2021.

6. Design Review Applications by Consent

- 6A. Barlo Signs, on behalf of Liberty Utilities, requests ADR approval for the replacement of a non-illuminated wall sign at 10 Broken Bridge Road in the Industrial (IN) District.

On a motion made by Ms. Foss, and seconded by Councilor Champlin, the Board voted unanimously to approve the design as submitted by consent.

- 6B. NEOPCO Signs, on behalf of 603 Legal Aid, requests ADR approval for the replacement of a non-illuminated freestanding sign at 15 Green Street in the Civic Performance (CVP) District.

On a motion made by Ms. Foss, and seconded by Councilor Champlin, the Board voted unanimously to approve the design as submitted by consent.

- 6C. NEOPCO Signs, on behalf of Carolyn Herrick, requests ADR approval for the installation of a new non-illuminated wall and blade sign at 134 North Main Street in the Central Business Performance (CPB) District.

On a motion made by Ms. Foss, and seconded by Councilor Champlin, the Board voted unanimously to approve the design as submitted by consent with the strong recommendation that the bracket for the hanging sign be located over one of the columns flanking the entrance, rather than on the arch keystone.

- 6D. Advantage Signs, on behalf of Eames Insurance Services, requests ADR approval for the replacement of a freestanding sign at 78 Airport Road in the Industrial (IN) District.

On a motion made by Ms. Foss, and seconded by Councilor Champlin, the Board voted unanimously to approve the design as submitted by consent with the recommendation that the third line of text on the Remax sign be removed. If the line is not removed, then the third line of text should be centered with the text above and "Drive by" removed.

- 6E. Sharon Say requests ADR approval for the installation of a new non-illuminated wall sign at 322 Village Street in the Central Business Performance (CPB) District.

On a motion made by Ms. Foss, and seconded by Councilor Champlin, the Board voted unanimously to approve the design as submitted by consent.

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Public Hearings

7. Design Review Applications

- 7A. Neokraft Signs, on behalf of Bangor Savings Bank, requests retroactive ADR approval for the installation of a new internally-illuminated freestanding sign at 100 Loudon Road in the Institutional (IS) District.

Ms. Shank explained that the sign has been installed. The Applicant met with the ADRC who gave recommendations for approval. The applicant was granted a variance from the Zoning Board of Adjustment. The application was not returned to the Planning Board and has not been formally approved by the Board. She noted that the Applicant did pay for applicable sign fees; however, no late fees were assessed as the change in fees was not in affect at the time of the original application from 2018.

Chairman Woodfin opened the public hearing. With no comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

On a motion made by Ms. Smith-Meyer, and seconded by Ms. Foss, the Board voted unanimously to approve the design as submitted.

8. Site Plan, Subdivision and Conditional Use Permit Applications

- 8A. Panciocco Law, LLC, on behalf of Strategic Contracting, LLC, requests a one-year extension of a conditional site plan and subdivision approval for a proposed cluster subdivision at Hoit Road (Map 07Z, Lot 48) in the Open Space Residential (RO) District.

Ms. Fenstermacher explained that the Applicant is requesting an extension for their conditional approvals for both site plan and subdivision applications, which expired July 15, 2021. She stated that the Applicant is working on revisions to their condominium documents and recently submitted revised site plans. The Applicant was awaiting the Alteration of Terrain Permit, which was recently approved by the State.

No one was present to represent this application.

Chairman Woodfin opened the public hearing. With no comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

On a motion made by Ms. Foss, and seconded by Mr. Hicks, the Board voted unanimously to **grant approval** for a one-year extension to meet the amended conditions of the Major Site Plan and Condominium Subdivision approvals. As part of this action, the Board indicated that all conditions of the original and amended approval shall remain in full force and effect. Precedent conditions shall be met by August 18, 2022.

On a motion made by Councilor Champlin, and seconded Ms. Foss, the Board voted unanimously to **grant approval** of a one-year extension of the Conditional Use Permit per Section 28-4-3(d) of the Zoning Ordinance for the Disturbance to a Wetland Buffer. Construction shall commence by October 16, 2022.

- 8B. Belanger Surveying, on behalf of Anita Whiting and Tex Michael Whiting, requests Minor Site Plan approval for a lot line adjustment between 74 and 77 Blueberry Lane in the Single Family Residential (RS) District.

On a motion made by Ms. Foss, second by Mr. Hicks, the Board voted unanimously to determine the application complete and that the application does not meet the criteria for a Development of Regional Impact, and open the public hearing.

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Mr. Durfee stated that the proposal is for a lot line adjustment between two lots on Blueberry Lane, a private road. The lot line adjustment will reduce the nonconformity of lot 74. In addition, subdivisions are not permitted on private roads; this is a lot line adjustment. Mr. Durfee noted that there are several waivers requested; all are supported by Staff.

Jacques Belanger of J.E. Belanger represented the application.

Mr. Belanger gave an overview of the proposal and explained that the current lot line cuts through the home. They are proposing to shift the lot line over to meet the setbacks and make the lot more conforming and sellable. Overall, 4/10 of an acre is being shifted. He reviewed the driveway easement.

The waivers were reviewed.

Chairman Woodfin opened the public hearing. With no comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

On a motion made by Mr. Fox, and seconded by Ms. Foss, the Board voted unanimously to **grant the waivers** to Sections 12.08(3) *Existing Topography*, 12.07 *Wetland Delineation*, 12.08(4) *Soils*, 12.08(5) *Natural Features*, 12.08(6) *Community Features*, and 12.08(23)(b, c, & d) *Tabulations* given that no further development is proposed and the purpose for the adjustment is to make lot 75 more conforming, utilizing the criteria from RSA 674:36(II)(N)(2): Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

On a motion made by Councilor Champlin, and seconded by Ms. Foss, the Board voted unanimously to **grant Minor Subdivision** approval for the lot line adjustment at 74 & 77 Blueberry Lane in the Single Family Residential (RS) District subject to the following conditions:

- (1) Address Technical Review Comments, noted above, to the satisfaction of the Planning Division.
- (2) Address Engineering Comments to the satisfaction of the Engineering Division.
- (3) Waiver(s) granted are to be noted and fully described on the plan including date granted and applicable Section number(s) of the Subdivision Regulations. Should the Board vote to deny the waiver(s), the applicant shall comply with said submission requirement(s).
- (4) 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.
- (5) The Licensed Land Surveyor shall sign and seal final plans and mylars.
- (6) The Applicant shall submit two checks for recording the plan at the Merrimack County Registry of Deeds (including a separate check in the amount of \$25.00 for the LCHIP fee). Both checks are to be made payable to the Merrimack County Registry of Deeds.
- (7) The Applicant shall deliver to Planning one (1) plan set(s) and one (1) mylar(s) for endorsement by the planning Board Chairman & Clerk and recording at the Registry of Deeds.

8C. Beaver Brook Planning and Design, on behalf of Joseph Daigle, requests Conditional Use Permit approval to allow impacts to a wetland buffer for construction of a single-family home at 60 Snow Pond Road in the Open Space Residential (RO) District.

Ms. Smith-Myer recused herself from this application and left the table.

Ms. Smith-Myer represented the application.

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On a motion made by Ms. Foss, second by Mr. Fox, the Board voted unanimously to determine the application complete and that the application does not meet the criteria for a Development of Regional Impact, and open the public hearing.

Ms. Fenstermacher gave a Staff update. She explained that the proposal is for a Conditional Use Permit (CUP) for a wetland disturbance to allow for 2044 sq. ft. temporary disturbance in the 50-foot Wetland Buffer for the demolition of an existing house and the construction of a new residence. She stated that the CUP application went before the Conservation Commission last week and the Commission requested that the Applicant provide additional information showing that the proposed location is the best location. A revised plan has been provided and the proposed location is the largest area on the property with buildable area between the 50 ft front yard setback and 50 ft wetland buffer.

Ms. Fenstermacher recommended that the Applicant relocate their proposed barn to not impact the wetland buffer. She also stated that the Applicant will need a shoreland permit from the State of NH. In addition, she stated that the lots are currently two separate lots and will need to be merged or the house will be non-conforming and in the setbacks. She added that the Conservation Commission recommended a condition that the wetland buffer be marked.

Additional discussion was held regarding the location of the proposed deck. It was noted that the deck was shown to be over the buffer; however, it is a free-standing structure, there will be no footings in the buffer.

Ms. Fenstermacher stated that the owners will be demolishing the existing house and shed. They will also be cleaning up the debris around the existing house.

Ms. Smith-Meyer stated that the septic system will be sunsetted and a new system will need to be approved and installed.

Abutter Diana Townsend stated that her property is made up of all wetlands. She is concerned with the direction of water and the overall drainage and impacts this development will have on her property and the pond. She stated that her property is lower than the applicant's property. It was explained to Ms. Townsend that there is no disturbance proposed to the north so her property should not be impacted, and there are some topography changes but runoff will go towards the wetland buffer and pond; all the development is in the southern edge of the property.

Mr. Woodfin mentioned the existing woods road as the access and the fact that the road is basically compacted dirt. Ms. Smith-Meyer noted that runoff will be directed to the pervious areas and water will be absorbed into the ground water. Ms. Foss stated that there will be an increase in impervious surfaces at the south end of the lot from the building and driveway. Ms. Smith-Meyer replied that the property is relatively level and the intent will be to build up the area to allow for a walkout basement and an area for the leach field. She added that there will be more roof area than what exists. She noted that there is also a vegetated buffer from the pond edge to the construction.

With no further comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

Mr. Hicks asked if seeking a variance would be better than approving a Conditional use Permit as the house would be built closer to the road. Ms. Shank explained that the Planning Board cannot make a recommendation to an applicant that they must get a variance.

Chairman Woodfin asked if there would be any issues with the proposed location for the leach field or septic system. Ms. Fenstermacher replied no as this application is only relative to buildings.

On a motion by Mr. Fox, and seconded by Ms. Foss, the Board voted 7/0/1 (Ms. Smith-Meyer recused) to **grant Conditional Use Permit** approval in accordance with Article 28-4-3(d) of the Zoning Ordinance (ZO) to allow temporary disturbance of 2044 sf of the 50-foot Wetland Buffer for the

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construction of a single-family residence at 60 Snow Pond Road in the Residential Open Space (RO) District, subject to the following precedent and subsequent conditions noted below:

- (a) Precedent Conditions – to be fulfilled within one (1) year and prior to sign off by the Clerk and Chair of the Planning Board and the commencement of site construction, unless otherwise specified:
 - (1) Address Staff review comments to the satisfaction of the Planning and Engineering Division.
 - (2) Submit two (2) copies of fully revised plans for sign off by the Clerk and Chair of the Board.
 - (3) The Applicant shall relocate the barn to be located outside of the 50’ wetland buffer.
 - (4) The Voluntary Lot Merger shall be approved and recorded.
- (b) Subsequent Conditions – to be fulfilled as specified:
 - (1) Prior to the issuance of a building permit, wetland buffer disks shall be installed in accordance with Section 36.28 of the Site Plan Regulations.
 - (2) Prior to final construction sign-off, staff shall be contacted to inspect the restoration area.

Ms. Townsend asked for clarification what the approval means for her property with any drainage issues. Ms. Shank explained that she looked at the multiple contour lines for the property. She stated that this proposal is not proposing to fix any existing drainage problems. She stated that any additional drainage would be directed to go the other way, away from their property and there should not be any concern that there will be any water threat.

Ms. Smith-Meyer returned to the Board.

8D. Joseph Vanaria, on behalf of Manchester Sand, Gravel, and Cement Co. Inc., requests Conditional Use Permit approval to allow a compost facility at 200 Sheep Davis Road in the Industrial (IN) District.

On a motion made by Ms. Foss, second by Mr. Fox, the Board voted unanimously to determine the application complete and that the application does meet the criteria for a Development of Regional Impact, and open the public hearing.

Ms. Fenstermacher gave an overview of the project noting that several variances were granted by the Zoning Board of Adjustment. She stated that they are proposing to construct a small accessory building and will have two gravel parking spaces. She noted there is a portion of the site shown within the 250 ft buffer of the Shoreland Protection District. Revised plans have been provided showing that the operations and roads are outside of the 250 ft buffer. She added that the Town of Pembroke Planning Board will be reviewing the application at their August 24, 2021 meeting. She is recommending that the application not be finally approved until comments are received from the Pembroke Planning Board.

Attorney Biron Bedard from Ransmeier and Spellman represented the application.

Atty. Bedard gave an overview of the 34-acre site, which is in both an Industrial and Residential Open Space districts. He stated that the proposal is for a composting facility and explained the process of composting and the types of materials they are proposing to have at the site; grass and leaves only. The site will not be for any commercial sales; it is a captive site for Vanaria from the landscaping business. No household compost is accepted. He added that they concur with all of Staff’s recommendations.

Councilor Champlin asked about a water source. Atty. Bedard replied that there is no water source

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proposed for the site. He explained that their sites are very active; however, should water be required, the water comes in by truck. He added that if the compost is turned frequently, it does not require the water as it does not reach a high internal temperature. With regard to facilities, Atty. Bedard stated that a composting toilet will be used.

Mr. Santacruz asked about traffic and trip generations proposed for the site. Atty. Bedard explained that the number of trips varies day to day as it depends on the yard clean ups. He stated that some days could be higher than 10 and other days it may be less. Trucks are 10-wheel dump trucks only.

With no further comments from staff, members of the Board, or public, Chair Woodfin closed the public hearing.

Ms. Fenstermacher stated that this proposal is for a 30x30 building, which does not meet the thresholds for a Minor Site Plan application; however, a Site Plan approval may be triggered should either the gravel area or building area be expanded.

On a motion by Mr. Fox, and seconded by Ms. Foss, the Board voted unanimously to **grant Conditional Use Permit** approval in accordance with Article 28-2-4(c), Uses Permitted by Conditional Use Permit, of the Zoning Ordinance (ZO) to allow for the proposed leaf and grass composting facility (Materials Recycling and Processing) at 200 Sheep Davis Road in the Residential Open Space (RO) and Industrial (IN) Districts, subject to the following precedent and subsequent conditions noted below:

- (a) Precedent Conditions – to be fulfilled within one (1) year and prior to sign off by the Clerk and Chair of the Planning Board and the commencement of site construction, unless otherwise specified:
 - (1) Address Planning Staff review comments to the satisfaction of the Planning Division.
 - (2) Address Engineering staff review comments to the satisfaction of the Engineering Division.
 - (3) Conditional Use Permit granted shall be noted and fully described on the plan, including date granted and applicable Section number of the Zoning Ordinance.
 - (4) Variances granted by the ZBA shall be noted and fully described on the plan, including date granted, applicable Section number of the Zoning Ordinance, and any conditions placed by the ZBA.
 - (5) Provide a copy of the amended NHDOT driveway permit.
 - (6) Install Conservation Easement markers, if required.
 - (7) Application shall be reviewed by the Pembroke Planning Board. Should the Pembroke Board recommend revisions that materially alter the application, the Applicant shall return to the Planning Board
 - (8) Submit two (2) copies of fully revised plans for sign off by the Clerk and Chair of the Planning Board.
- (b) Subsequent Conditions – to be fulfilled as specified:
 - (1) Prior to issuance of the Certificate of Occupancy or final construction sign-off, the restoration of the 75' vegetative buffer shall be completed to the satisfaction of City staff.

9. Other Items

- 9A. Pitco Frialator, LLC, requests realignment of the Mapped Lines of Future Streets that passes through the properties at 15 Integra Drive and 110 Manchester Street in the Industrial (IN) and Office Park Performance (OFP) Districts.

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This item was postponed with no date or time certain

10. Amendments

- 10A. Proposed amendment to Subdivision Regulation Section 30.06, Reduction of Financial Guarantees, regarding the amount of the guarantee that may be reduced in relation to the value of completed improvements.

Ms. Shank explained that the current Subdivision Regulations do not allow for any financial guarantee from being reduced below 25% for any certain project, until all public improvements required by the Board have been completed and accepted by City Council. She stated that Staff has recently been made aware that this standard is problematic, because the amount of 25% is not specifically related to the value of work remaining to be completed. The amount of financial guarantee retained by the City should instead reflect the amount needed to complete the remaining work, including no more than 10% inflation (cost escalation) over time, in accordance with RSA 374:36,III(b).

Ms. Shank stated that Staff is recommending the Board approve to amend the Subdivision Regulations in accordance with RSA 674:36,III(b), allowing the City to retain only the amount of financial guarantee needed to complete remaining work, including inflation over time. The proposed language complies to the statute.

On a motion by Councilor Champlin, and seconded by Ms. Smith-Meyer, the Board voted unanimously to approve the amendment to the Subdivision Regulations in accordance with RSA 674:36,III(b), allowing the City to retain only the amount of financial guarantee needed to complete remaining work, including inflation over time.

Adjournment

At the request of Chairman Woodfin, Mr. Hicks made a motion to adjourn at 7:49 PM, seconded by Mr. Santacruce. The motion passed unanimously.

A TRUE RECORD ATTEST:

Lisa Fellows-Weaver,
Administrative Specialist