

A special meeting of the City Planning Board was held on September 24, 2008 in the City Council Chambers in the City Hall Annex at 7:00 PM.

Present at the meeting were Members Drypolcher (who as Chair presided), Foss, Meyer, Shurtleff, Swope and Alternate Member Blanchette (who was seated for absent Member Dolcino). Mr. Woodward, Mr. Henninger and Ms. Osgood of the City Planning Division were also present as well as Ms. Aibel, the City's Associate Engineer.

At 7:01 PM a quorum was present and the Chair called the meeting to order, and seated Alternate Member Blanchette for Member Dolcino who was not expected.

## **APPLICATIONS**

### **Major Subdivisions**

1. Application by **Judith & Emmanuel T. Brochu Jr.** for **waivers** to the Subdivision Regulations related to a subdivision of property located at **8 Parmenter Road.** (#2008-01)

### **Public Hearing**

Mr. Henninger explained this proposal for a three-lot subdivision associated with a 25-unit planned unit development. The subdivision involves the reconstruction and extension of Parmenter Road and a new north-south connecting street, as well as utility extensions and drainage improvements. The public improvements result in this being classified as a major subdivision for which the applicant received preliminary approval in May of 2008. The applicant has now submitted three alternative designs for Parmenter Road for consideration by the Planning Board before final approval of the subdivision.

He explained that Design A was the original submittal with a 26-foot wide pavement cross section for the entire length of Parmenter Road. Design B is referred to as the hourglass design and has a 30-foot wide pavement on site and tapers to 26 feet at the subject property's eastern property line and continues easterly about 190 feet and then widens to 30 feet at the intersection of North State Street. Design C calls for a 26-foot wide road both on and off site with the additional widening to 30 feet for the last 45 feet approaching the intersection with North State Street.

He reported that the applicant has requested a number of waivers to the City's Subdivision Regulations. The waiver requests apply only to the area of the subdivision, not to the off-site portion of Parmenter Road. Section 9.04(2)(d)(ix), Improvements to Existing Adjacent Streets, subsection (aa), of the Subdivision Regulations sets forth the Board's requirements in regard to existing public streets. He reported that the Board had historically required improvements to existing streets for new subdivisions where substandard access exists to a new development.

He explained that Design A and Design C, if approved, would require identical waivers. Design B would require the same waivers but not to the same extent.

Mr. Henninger reported that the applicant had requested the following waivers:

1. A waiver to permit a 26-foot wide paved cross section in a High Density District where a 30-foot paved cross section as required in Section 9.04(3)(a) and Figure 9-A of the City's Subdivision Regulations.
2. A waiver to permit sidewalks on only one side of the street instead of both sides as required in Section 9.04(3)(d), Section 9.06(2)(a) and Figure 9-A of the City's Subdivision Regulations.
3. A waiver to permit the grass panel abutting the sidewalk to be less than the five feet required in Figure 9-A of the City's Subdivision Regulations.
4. A waiver to permit the road layout to be less than symmetrical on either side of the centerline for a portion of the right-of-way as required in Figure 9-A of the City's Subdivision Regulations.

He reported that City staff had noted that no development is to be allowed on either of the lots on both sides of Parmenter Road to the cross street which further supports the requested waiver for the sidewalk on one side.

City staff is supportive of approving the waivers needed for either Design A or Design C with a consistent 26-foot pavement section on Parmenter Road. Design C with its 45-foot long, 30-foot wide pavement section would allow for some increase in capacity at the intersection with North State Street to allow for right-turning traffic to bypass vehicles stopped to turn left onto North State Street. This wider throat at North State Street will allow for a wider turning radius to be maintained in extreme snow conditions similar to what occurred last winter.

City staff is of the opinion that maintaining a consistent lane width along Parmenter Road is marginally safer than the hourglass design laid out in Design B which has a narrow section of less than 225 feet. The Engineering Department noted that they were not comfortable with a reduction of pavement on the outside of a curve at 8% grade, and would force a cyclist into the path of vehicles where drivers will not be expecting to merge.

Attorney Richard Uchida from Orr & Reno, and Michael Garrepy from Parmenter Realty Investments LLC, were present to answer questions from the Board.

Mr. Uchida described the three different road layout scenarios. Design A would be a road with a 40-foot right-of-way and a 26-foot wide pavement section from the existing intersection at North State Street to the applicant's lot line, at which point the right-of-way would increase to fifty feet although the pavement width would remain at 26 feet through the proposed two road termini within the applicant's property. This has been referred to as the 26-foot design.

Design B would be a road with a 40-foot right-of-way and a 30-foot wide pavement section from its existing intersection at North State Street to a point about 50 feet from the intersection, at which point the pavement width would be reduced to 26 feet. It would remain at 26 feet but transition back to 30 feet as the road approaches the applicant's property and would remain at 30 feet through the proposed two road termini. This has been referred to as the hourglass design.

The third design would be a road with a 40-foot right-of-way and a 30-foot wide pavement section from its existing intersection at North State Street to a point about 50 feet from the intersection, at which point the pavement width would be reduced to 26 feet and remain at 26 feet through the proposed two road termini within the applicant's property. This has been referred to as the beaker design.

Mr. Uchida explained the request for a waiver to permit a 26-foot roadway where a 30-foot roadway is required. He reported that in Designs A and C the roadway on the site would remain 26 feet in width to be consistent with the 26-foot roadway on Parmenter Road. The roadway width would reflect the status of the road as a minor road with little traffic, and the narrower pavement width would serve a traffic calming function. He noted that one member of the Planning Board had stated in earlier deliberations that it is in the City's interest to be constructing less, rather than more pavement. In this instance that factor is particularly compelling because a narrower pavement width will result in a lower impact to the property owner immediately to the south of the parcel. Further, when the roadway is viewed from beginning to end, this waiver will result in a more consistent roadway than either Design B or the existing Parmenter Road layout. Both the City's Engineering and Planning staff felt that the original 26-foot pavement width waiver for the entire street was reasonable and was marginally safer in that it achieved the practical design consideration of creating a consistent roadway width. The Acting Fire Chief had also testified at an earlier hearing that a 26-foot roadway width was acceptable for emergency access and that it would exceed NFPA standards as well as provide the Fire Department with room to maneuver into the area even with snow banks during the winter season.

He explained that in Design B only that portion of the roadway entering the property would be less than 30 feet in width. This is solely due to the 10:1 taper to widen the road from the 26-foot wide pavement area in the existing portion of Parmenter Road back to a 30-foot wide area. This would affect about a 25-30 foot length of the road as it enters the site and was necessitated by the geometry of the existing road, and the sensible need to reasonably transition back to the 30-foot wide pavement area. After that, the roadway width would remain in compliance with the 30-foot requirement.

He explained that under, any of the designs, the existing portion of Parmenter Road will be widened to 26 feet. This is a vast improvement over the 15-18 foot pavement width that exists today.

Mr. Uchida then explained the request for a waiver to allow a sidewalk on one side of the street instead of both sides. He explained that requiring sidewalks on both sides of the street provides no meaningful improvement for pedestrians, given the size of the

neighborhood as well as the relatively small number of nearby homes. Since the existing street can only accommodate sidewalks on one side of the street, a sidewalk on the other side of the proposed street extension within the site makes little sense, especially given that a crosswalk would have to be created on the curve immediately above the existing portion of the street. He felt this waiver would enhance public safety and welfare and reflects the unique condition of the property which is caused by the lack of sufficient right-of-way on the existing portion of Parmenter Road. He also noted that requiring a sidewalk panel on the south side of the roadway near the entry to the property would eliminate or severely cut into existing vegetation that provides protection to one home that sits immediately adjacent to the property line. The panel would provide the applicant with almost no opportunity to landscape the area between its property and the abutter. Also, the creation of a sidewalk within the applicant's property and along the existing portion of Parmenter Road represents a substantial improvement over current conditions inasmuch as pedestrians currently have access to only a 15-foot wide, ill-defined pavement area and no sidewalk panel.

Mr. Uchida then discussed the request for a waiver to permit the grass panel abutting the sidewalk to be less than required. He explained that the existing Parmenter Road does not permit the installation of a grass panel between the sidewalk and roadway. Rather than turn the sidewalk at an angle when it arrives on site solely to accommodate the proper width of a grass panel, the design transitions the sidewalk at an angle so that the panel is gradually created. The waiver is needed because the properly-sized panel does not immediately exist at the specified width as the sidewalk transitions to the proper location on site.

He reported that the final waiver request was to permit the road layout to be less than symmetrical on either side of the centerline for a portion of the right-of-way. Mr. Uchida explained that, given that the existing Parmenter Road right-of-way is 40 feet and arrives on a corner of the lot, a perfectly symmetrical road sitting in the middle of the 50-foot right-of-way is not possible where the road arrives on site. Eventually the improvements become symmetrical as the roadway transitions to a location that is centered in the 50-foot right-of-way. These features constitute conditions unique to the property and cause no detriment to public health, safety or welfare and are not injurious to neighboring properties.

Mr. Uchida responded to the correspondence relative to a claim that a small portion of the right-of-way of Parmenter Road may belong to the abutter, which would result in a small jog in the abutter's property which would jut out about 18 inches into the Parmenter Road right-of-way. He reported that the applicant disagreed with the abutter's claim. First, if that claim is correct, it will not affect the development. The disputed portion of the right-of-way is not on the development parcel and is so small and narrow that the proposed roadway can be accommodated within the remainder of the right-of-way without difficulty. He reported that the layout petition for Parmenter Road describes a centerline which lines up with the existing right-of-way for Parmenter Road today and recites that the layout affects property for twenty feet on either side of the centerline. Likewise, the railroad valuation sheets depicting the layout of the former Concord and Claremont railroad right-of-way, on which this rectangle would have been

located if it existed, do not depict such as rectangle or jog in the land. He also reported that evidence suggests that the City has used the roadway since 1892. Under New Hampshire RSA 229:1, if the municipality used the roadway for public use for a period in excess of twenty years prior to January 1, 1968, then the roadway becomes public. Thus, it was his opinion that the roadway became public through the doctrine of public use.

Andy Chapman, 9 Parmenter Road, asked which plan is being presented for comment. The Chair responded that the Planning Board still needs to make a decision on which plan to approve and suggested Mr. Chapman provide his comments on each plan.

Mr. Chapman explained that the greatest concern for the neighborhood is the issue of safety. Parmenter Road is not up to City standards and probably never will be unless a developer acquires additional property from abutters, and that is not likely to happen. One of his main concerns is what the residents of the existing properties will have to do to gain access to a sidewalk. He felt their safety was greatly compromised because of this development. Even the "sidewalk to nowhere" would be better than no sidewalk for their access to Parmenter Road. Having a road ten feet off someone's property is a big deal to that property owner.

Ms. Meyer asked how he felt their safety is being compromised. Mr. Chapman responded that he was concerned about pedestrian safety. Crossing a road with a steep grade may not be dangerous now, but if there is ever future development to the north and south it would become a real problem.

Ms. Meyer asked if he would be able to perceive the difference in the grade between 8% and what is proposed, and Mr. Chapman responded that he would. He also felt there should be a sidewalk on both sides of the road.

Steve Frost, direct abutter at the top of the existing Parmenter Road, explained this is the steepest grade and narrowest point of the road and it will be bottlenecked right at his driveway. The developers are proposing to take his stone wall which is one of the oldest boundaries in the city. He felt this was a very dangerous point on the street. The hourglass design does not resolve the issue of the pinch point near his property. There are no sidewalks on his side of the street anywhere because the road is too narrow, and he does not think that is safe.

Mr. Frost further commented, in response to the statement by Mr. Uchida that they will be improving Parmenter Road, that the neighborhood felt they are not improving the situation at all. He also indicated that the little piece of land whose ownership is in question does play a large part in what will happen to this project. He noted that the previous owners of his property were not paid damages for the layout of Parmenter Road and that he has sought an injunction because of this.

There was no one else who wished to speak for or against this proposal and the Chair declared the hearing closed at 7:38 PM.

Deliberations and Action

Ms. Meyer asked if the stone wall would be affected if the road remained at 26 feet wide, and Mr. Henninger responded that it would not be impacted with the 26-foot width. There is a section of the stone wall that is in the laid out right-of-way.

Mr. Swope proposed that the Planning Board discuss only Design C and dismiss the other two proposals since that is the design that is the recommendation of staff.

Ms. Meyer did not see the advantage of the wider throat at the intersection of Parmenter Road with North State Street. She preferred Design A.

Mr. Drypolcher indicated he also preferred Design A.

Mr. Shurtleff expressed concerns about the 26-foot width as it meets North State Street.

Mr. Blanchette preferred the thirty-foot width at the North State Street intersection. He also asked if there would be an opportunity to construct three lanes on Parmenter Road, an in-bound lane, a right-turn lane and a left-turn lane. Mr. Henninger responded that typically on a street like this there would be no striping of any kind except striping for the stop sign, so there would be many opportunities to slide by in an informal manner. Ten-foot travel lanes could be marked out but the City staff did not necessarily recommend that option. This is a low-volume local street at this stage of development.

Ms. Meyer agreed that at this point the intersection probably does not warrant marking right and left turn lanes and, if there is more development, then the entire road design would need to be revisited.

Mr. Shurtleff had concerns about snow removal and exhaust fumes affecting the direct abutter at the south side of the intersection.

Ms. Foss favored the thirty-foot width at the North State Street intersection but questioned why striping would create a less safe situation than people trying to wiggle by. If it is thirty feet wide, she would like to see striping.

Ms. Foss asked for an explanation as to why the waivers were no longer necessary for the existing portion of Parmenter Road. Mr. Woodward responded that off-site improvements are covered under Section 9.04(2)(d)(ix) of the Subdivision Regulations which does not require that . The applicant's attorney noted that at the last meeting and the City Solicitor had since been consulted and concurred.

Ms. Meyer moved that the Planning Board grant a waiver to Section 9.04(3)(a) and Figure 9-A of the Board's Subdivision Regulations to allow a 26-foot wide paved traveled way where 30 feet is required. Mr. Swope seconded.

In answer to questions by Mr. Swope and Mr. Shurtleff, Mr. Henninger explained that anyone proposing future development to the north and south would be responsible for

upgrading the spurs being created by this development. Access on Parmenter Road would not be likely to be considered the primary access for any further development.

Motion carried, 5-1, with Mr. Shurtleff voting against.

Mr. Swope moved that the Planning Board grant a waiver to Section 9.04(3)(d) and Table 9-2 (Sidewalks) of the Board's Subdivision Regulations for a sidewalk on both sides of a minor street and to provide a sidewalk on one side of the street. Ms. Meyer seconded.

Ms. Foss suggested continuing the sidewalk on the south side from the last new building along the edge of the road and provide a crosswalk at the foot of the driveway to give those residents safe passage down Parmenter Road. If the sidewalk did continue down the south side of the road, she suggested that there could be a crosswalk above the slope so that there would be a designated crossing area and an opportunity for the northerly residents to cross and get down to North State Street in a safe manner.

After discussion of Ms. Foss's suggestion, the motion carried, 4-2, with Mr. Shurtleff and Ms. Foss voting against.

Mr. Swope moved that the Planning Board grant a waiver to Section 9.04(3) Streets, of the Board's Subdivision Regulations to allow the grass panel abutting the sidewalk to be less than the five feet required in a portion of the right-of-way as set forth in Figure 9-A. Ms. Meyer seconded. Motion carried.

Mr. Swope moved that the Planning Board grant a waiver to Section 9.04(3) Streets, of the Board's Subdivision Regulations to allow the road layout to be less than symmetrical on either side of the centerline for a portion of the right-of-way as set forth in Figure 9-A. Ms. Meyer seconded.

Mr. Blanchette asked for confirmation that the disputed parcel of land will not be affected by the waiver. Mr. Henninger responded that the disputed area is outside the proposed right-of-way so it is not affected by the waiver requests.

Motion carried.

Mr. Swope moved that the Planning Board approve Design C providing 30-foot width at the intersection of Parmenter Road with North State Street. Mr. Blanchette seconded. Motion carried, 5-1, with Mr. Shurtleff voting against.

Ms. Foss moved that the Planning Board require that lines be painted to delineate the travel lanes at the mouth of Parmenter Road. Mr. Blanchette seconded.

Ms. Meyer asked whether that would be a decision made by the City Engineer after studying the warrants for marking lanes. Mr. Woodward responded that the motion would represent an expression about how the Board feels about the issue which would be considered by the City Engineer.

Mr. Swope suggested amending the motion to indicate that the Planning Board recommends that the City Engineer consider requiring lane marking at the intersection. Ms. Foss and Mrs. Blanchette agreed to the amendment.

Motion as amended carried, 5-1, with Ms. Meyer voting against.

## REGULAR MEETING

### Further Consideration

Further consideration of an application for approval of a development on which a public hearing has previously been held.

2. Application by **Judith and Emmanuel R. Brochu, Jr.** for **final approval** of a three-lot subdivision together with an extension of Parmenter Roar and construction of a new road at **8 Parmenter Road**. (#2008-01)

Mr. Swope moved that the Planning Board grant conditional final approval of the "Subdivision Plat of the land of Emmanuel T. Jr. & Judith I. Brochu" at 8 Parmenter Road in support of the proposed Parmenter Place Planned Unit Development subject to the following standard and special conditions:

#### Standard Conditions

1. Prior to the final plat being signed by the Planning Board Chair and Clerk, the following State and federal permits shall be obtained and copies provided to the Planning Division:
  - a. NH Wetlands Bureau (wetland alterations)
  - b. NH Department of Environmental Services Alteration of Terrain Permit (RSA 485-A:17)
  - c. NH Department of Environmental Services Water Quality and Sewer Discharge Permits
2. Prior to the final plat being signed by the Planning Board Chair and Clerk, the following local approvals and permits shall be obtained and copies provided to the Planning Division:
  - a. Driveway Alteration Permit from the General Services Department
3. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant will provide to the City Solicitor a financial guarantee for all public improvements in an amount approved by the City Engineer, and in a form acceptable to the City Solicitor.
4. Prior to the final plat being signed by the Planning Board Chair and Clerk, the following easement documents, in a form acceptable to the City Solicitor and

suitable for recording in the Merrimack County Registry of Deeds, will be provided to the Planning Division:

- a. Deed of Easement for the extension of Parmenter Rd and the new south road.
  - b. Open Space Covenant/Drainage Easement.
5. Prior to the final plat being signed by the Planning Board Chair and Clerk, approval shall be obtained for the construction drawings and specifications for all public improvements from the Engineering Division prior to the commencement of any of the public improvements. No construction activity may commence prior to the pre-construction conference.
  6. No certificate of occupancy for any building or use shall be issued until all public improvements have been completed to the satisfaction of the City Engineer and accepted by the City Council.
  7. Prior to the final plat being signed by the Planning Board Chair and Clerk, the applicant shall obtain approval of private utility plans from Unitil (Concord Electric), Fairpoint Communications (Verizon), and National Grid (Keyspan).
  8. Prior to the release of a financial guarantee for any public improvement, an as built plan shall be provided to the City Engineer in form and content acceptable to the City Engineer.
  9. 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.

#### Special Conditions

10. Prior to the start of construction activity on the site, a property survey and pre-blast survey will be completed on the abutting properties. A financial guarantee acceptable to the City Engineer shall be required to insure any potential damages to abutting property prior to the start of construction.
11. Prior to the final plat being signed by the Planning Board Chair and Clerk, the plans shall be revised to incorporate improvements to the existing Parmenter Road as set forth in Design "C" which includes improvements to create a 26-foot wide road both on and off site with additional widening to 30 feet for the most easterly 45 feet of the existing Parmenter Road at North State Street. This design is incorporated in "Concept 2 - Parmenter Road Improvement Plan" received on August 6, 2008. The Board further specified that, subject to approval by the City Engineer, the 30-foot wide section of Parmenter Road at North State Street shall be striped for one entry and two exit lanes.

Ms. Meyer seconded. Motion carried, 5-1, with Ms. Foss voting against.

**ADDENDUM**

**Architectural Design Review**

The Board considered a request by **Fox Brook Holdings LLC** for a revision to the colors of the bricks on the exterior elevations of the third floor of the Foundry Business Center at **16 Foundry Street**.

Mr. Henninger explained that the building under consideration is currently under construction and staff had noted that the color of the brick was not as approved by the Planning Board. He explained that the only difference is that the color of the brick on the third floor is dark red brick with tan trim matching the rest of the building. The elevations approved by the Board showed tan brick on the third floor. This will make the first and third floor similar in design.

Mr. Woodward reported that the architect had contacted several members of the Design Review Committee who had driven by the site found the change to be acceptable.

Ms. Meyer moved approval of the revised elevations and Mr. Swope seconded. Motion carried.

There was no further business to come before the Board and the meeting adjourned at 8:30 PM.

A TRUE RECORD ATTEST:

Douglas G. Woodward  
Clerk

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