

MINUTES OF THE MEETING
OF THE
CANTERBURY PLANNING BOARD

May 10, 2016

BOARD MEMBERS PRESENT: Art Rose, Chair, Jim Snyder, Co-Chair, Hillary Nelson, Kent Ruesswick, George Glines (BOS) representative.

BOARD MEMBERS ABSENT: Tyson Miller, Joshua Gordon, Alternates: Chris Blair, Alice Veenstra

OTHER PARTIES PRESENT: Tim Bernier, John Elliott, Lois Scribner, Howard Moffet, Lucy Nichols, Mark Hopkins

Draft Minutes of April 26, 2016: Kent made a motion to approve the minutes as presented. Jim seconded. Discussion: None. Vote: Unanimous. 4/26/16 minutes were approved.

Public Hearing on Site Plan Application of JTG Properties, LLC for the commercial development of a storage building at Scotch Pine Road and Riverland Road, Tax Map 267, Lot 38:

Jim asked about voting on regional impact and said there's a difference between notifying Concord as an abutter and notifying them for regional impact. He also confirmed that Concord was in fact notified as an abutter. Jim made a motion that this project does not rise to the threshold of being regional impact. George seconded the motion

Discussion: Jim felt this project was consistent with other projects in that area. Hillary referred to the letter of Nancy Larson regarding two earlier approvals (Lucy Nichols and Matthew McKerley) and felt Concord was not properly notified. She wondered if the projects were regional impact because the beginning of the road is in the town of Concord. Hillary read portions of RSA 674:53. Jim still maintained that doesn't bear on whether it's regional impact, but it does bear on the fact that they do have to go to the Concord Planning Board, only with respect to access. Concord has no authority over the project itself. Jim told Tim Bernier, the project engineer for this project, that another approval box has to go on the JTG plan and they need to get the City of Concord's approval for access.

Kent asked if every project that comes to us in that area would have to go before Concord. Jim said yes, unless we come to some kind of an agreement. He also added that if we feel this project is regional impact then we have to stop the meeting and notify

the City and the Regional Planning Commission. He said a yes vote right now would continue the hearing with the presumption that this project is not regional impact. A no vote postpones the hearing.

A vote was held. Results: 3 yes, 1 no.

Further discussion: Jim explained that the regional impact law says if there is any question of regional impact, then it is presumed to be reasonable impact. Hillary said previously we had a difference in voting and we continued the meetings. Jim said yes, but now we are aware of other issues that we were not aware of before. Kent and George were uneasy about how to move forward. Jim read RSA 36:56. Lori confirmed that Concord and CNHRPC were both sent certified notices as abutters to the JTG project. Jim felt we've done everything we would have to do if was considered regional impact, so either way we've met an obligation of notifying both agencies of the project and neither of them sent a representative to this meeting. He thinks we let the vote go as is and continue with the meeting. Art agreed. We'll continue on.

Tim Bernier presented for the applicant and read the narrative he provided the Board. John Elliott owns this property, Dumpster Depot and JTG properties. The proposed building will be a multi-use facility. Half will be used by Dumpster Depot for inside storage and for parking of trucks and equipment. They are looking to rent the remaining area to other businesses. Someone has shown interest in the warehouse area to store ladders. The majority of renters will utilize the facility as a home base with their primary work being done offsite. Hours of use will be 6am to 6pm Monday through Saturday. Tim reviewed the lighting and noise plan, both of which are low intensity.

Traffic: Tim relied on the traffic study completed and updated by Stephen J. Pernaw, PE for the Whitney Road, US Route 4 and Old Boyce Road Intersection which was included in the application packet. Tim said the only issue that has come up is that Whitney Road, which is in Concord is being developed. There are a lot of projects being proposed on that road that will generate a lot of traffic, which will trigger a light at the intersection. What we do on this side of the road won't even put a dent into what is going on at Whitney Road. Tim said the study showed there were only 20 cars coming out of the area we are talking about compared with about 2,000 cars on Route 4 in the morning. This project is all low impact. Tim said he'll look at the statute Nancy referred to but this is the first time he's heard it interpreted the way she interprets it. Kent wondered if a rotary would work better at that intersection. Tim didn't have an answer for that other than Boscawen doesn't like the rotary they now have. Lucy Nichols, who was here as an interested business owner in that area said she heard from others in the area that it will be a rotary, but that is hearsay.

Tim went on to explain that all access will be off Scotch Pine Road, with no access to Riverland. This lot was clear cut at some point and the current trees are ugly. They intend to put in trees after removing all the little trees or plantings there. John has a couple of antique trucks he would like to keep indoors and also likes to keep his new

trucks inside for the first couple of years as well. The other bays would be rented. There are 9 parking spaces shown on the plan which are more than enough.

Jim asked if Tim did the work for Dumpster Depot and whether they got a variance for that. Tim said he didn't do the work. Jim pointed out that this is commercial zone and wondered what line they fit in with the Table of Uses because he can't figure it out. Tim said it seemed consistent with other uses, like Bissonnette's around the corner. Dumpster Depot is moving their trucks from their existing facility over to here. There was discussion about the Table of Uses and whether they needed a variance. Jim said the way he's seeing the wording, it seems very little is allowed in the commercial zone other than retail and he apologized for that. Hillary pointed out this is one more reason for the work being done on the Table of Uses now. Art and Hillary both felt this project should go to the Zoning Board for a variance. While discussion was going on, Jim found and read Planning Board minutes from March 11, 2008 and confirmed that they did get a variance for Dumpster Depot. That confirmed that they need to go to the Zoning Board for this project as well.

Tim understood and asked if the Board could let him know of any areas of concern so he can address them prior to coming back to the Board. Drainage was discussed with regard to impervious surfaces. Hillary talked about UMLAC and explained that they were very concerned about that particular area. Jim asked if he did a calculation of the non-permeable surface of the lot. Tim said it's 40%. Jim said there may be a problem with that since the requirement is 35% but referred Tim to the Site Plan Regulations.

Jim also told Tim that the ZBA is probably unaware of the regional impact concerns under this RSA the Board recently became aware of.

Art asked the abutters if they had questions. Lucy Nichols had no questions but felt John had a good reputation in town and didn't have any concerns. She's all for businesses in town because it's good for the tax rolls.

Jim moved that we continue this public hearing until the second Tuesday in June (the 14th) to give the application the opportunity to go before the ZBA. Hillary seconded. Discussion: None. Vote: Unanimous.

Public Hearing of Lois Scribner's Site Plan Application, 2 Baptist Road, Tax Map/Lot 109/106:

Jim made a motion that this should not be considered regional impact. Kent seconded. Vote: Unanimous.

Lois explained the project to the Board. The goal is to open as a small guest house this summer, but there is no set date for opening. The building has been registered as "Canterbury Bed and Breakfast". There will be four bedrooms and bathrooms. The guests will be in 3 of the bedrooms and the 4th will be her and her husband's room.

The exterior will not change. All parking will be off street and behind the house, with a small expansion to the driveway. There will be a sign to discourage any right hand turn up Hackleboro Road and guests will be encouraged to turn left and use the gazebo parking lot. They requested waivers for water, soil, landscaping, erosion/sediment control, traffic, lighting, and noise because none of those would be significantly impacted by the plan. Traffic will be limited to a maximum of 4 additional cars per day at max occupancy. Arrivals are late afternoon, departures are after breakfast. Snow removal was addressed as well as lighting. Lois advised the Board that they also spoke with the fire chief to be sure they're addressing any concerns there. He will come back prior to opening to do another inspection.

A septic plan was drawn by Web Stout. Mark Hopkins showed the Board the locations of the first tank and where the proposed second tank would be. Although the new plan is approved, there is no requirement that it be implemented prior to the opening of the B&B. The current system has served the home as is with no problems. There are a total of 4 ½ baths but the number of bedrooms remains the same. A septic plan could not be located so Web did a test on the system and did all the paperwork for a new design should it prove necessary. Jim said this is typical when someone comes to him as building inspector. You have to design a system in order to show you can support that many bedrooms but you don't have to implement the plan unless the system fails. Jim doesn't have a problem with that.

Jim made a motion that due to the nature of the project we take all six waivers as one motion and moved that we grant all six waivers. Kent seconded.

Discussion: Lisa Carlson is here for the Canterbury Community Market LLC who is an abutter. Lisa has no concerns about any of the waivers.

Vote: Unanimous. Waivers are granted.

Mark added that the applicant had a public hearing with the Historic Commission regarding the sign. Mark recused himself for that meeting and the Commission voted to approve it. They're happy with the proposed use.

Lisa said she thinks the community is looking forward to the guests at the house shop at the store and appreciate the center of town. It's keeping with the integrity of the center. They're good neighbors and she's looking forward to them coming. Lisa was "tickled pink." Lucy Nichols also spoke in support. She thought two B&B's in town is a good thing and they could work together as far as occupancy and activities.

Howard Moffet, Lois' husband, said as a member of the public he supports the project.

Jim made a motion to approve the site plan. Hillary seconded. Discussion: None. Vote Unanimous.

Other Business:

Brookford Farm: Art advised the Board that we received an email from Pat Gale of Brookford Farms. They are looking to hold movie nights at the farm throughout the summer. The Board of Selectmen felt they needed to come before the Planning Board. Art reminded the Board that we've had Brookford Farms before us for site plan in the past and eventually got the plan approved. Art's opinion is that this would be a change of use and would like to hear others opinions. He knows this is being referred to as agritourism but he doesn't see it that way. George said one other question is the sale of pizza and other things mentioned in the church newsletter. To his knowledge there is no commercial kitchen. Hillary said the State has licensed restaurants at every farm in the state. They just rewrote the law, and it passed, which includes eating meals. George clarified that any farm can be a restaurant and Hillary said according to the new definition of agritourism, RSA 21:34a, yes. Hillary read the RSA. Hillary agreed with Art, she doesn't think movies are part of a farm environment. Hillary read portions of the email from Patrick Gale aloud for the Board. They do currently have farm events there, like a Harvest Day, which are good farm events, but a movie isn't really a farm event. Art's concern in looking at an activity like this is that you need to look at lighting, traffic etc. If you turn your head to some of that (fire trucks, ambulance) and a situation happens, you could open the door to some liabilities, even though it appears harmless. Hillary also said we don't want to set the precedent that just because you're a farm, you can do anything you want. Hillary said the primary advertising is the movie, not the hayride or the food.

Hillary shops there and likes the farm, but agreed this is not agritourism. She thinks they need to go to the Selectmen. George said the BOS sent a registered letter to Brookford Farm. Jim looked at their website where they're selling tickets and saw the list of movies, which are mostly old, vintage movies. The meal is certainly called out on the website and it would be undeniable that the hayride would fall under the enjoyment of the farm environment. Jim wondered if it required site plan review or a Selectmen's permit. Arts concerns are still that just because it may fall in agritourism, it's still a change to the site plan review. We need to look at the liability issue if the general public is included. Hillary said it sounds like change of use and it's not properly permitted. She questions agritourism.

Hillary said they're starting the movies in June and ending in September which is 16 Saturday nights. If they went to the Selectmen, they would have to give a permit 16 times. A special use exception was discussed. Jim said the Zoning Ordinance has a problem where it lists large scale recreational use as over 200 people and wondered if that meant if you're under 200 you don't need a permit. Jim wants to be careful because this Board has been accused of being unfriendly to agriculture. He thinks if it's something that can help a farm, what's the harm? Art felt we catered to agriculture a little bit, but we've always had a sympathetic ear. George said at the very least there should be a hearing where the abutters are notified. Kent said he read the letter and felt if it was happening once the Selectmen could deal with it, but 16 events is different. We didn't approve that farm to be a 16 week showplace. Hillary said light could be an issue, but noise probably not.

The Board ultimately decided that in order for them to hold the movie nights, they need to come for an amended site plan review for change of use.

Lori will send them an email saying it is a change of use and they need to come back for an amended site plan review. Due to the timing, Hillary wondered if they should be going to the Selectmen for the first movie to get a permit until they see this Board. George said he will recuse himself for any public hearing on their application.

City of Concord: Jed Callan, Lucy Nichols' attorney, emailed the Board regarding the City of Concord's letter we forwarded to Lucy. He is looking for information as to how the Board is handling this issue. Jim said there is nothing for us to do on the Concord request, it's for the applicant to do. They can do it, or they can ignore it and risk the consequences. Kent said he thinks we have to have this discussion with Concord to get this addressed. Art will send a letter as Chairman of the Board that our position is to take no further position. Our decision was made. Jim said part of the RSA says the plan cannot be deemed approved without Concord's stamp, if Jed wants to do that he can, but he may interpret it differently. Jim spoke with a lawyer at the municipal association and said all the references Nancy made were accurate. Jim said he believes we took care of our responsibility.

Art reminded the Board that if we approve a site plan we can put a condition for the applicant to get Concord's approval and there has to be a box on the plan. Jim disagrees, that's the applicant's responsibility. We just need to advise the applicant the box needs to be there on the site plan. It's the applicant's responsibility to go to Concord. Concord can only approve or deny the access, not the project. The discussion ended.

Kent moved to adjourn. Hillary seconded. Vote: Unanimous

Meeting adjourned at 9:05 p.m.

Lori Gabriella, Secretary

Next meeting: May 24, 2016 at 7:00 p.m.