

Town of Lincoln Planning Board – Meeting Minutes
March 23, 2011 – 6:00 pm

Present: Chairman Pat Romprey, Vice Chairman Joe Chenard, Clerk Jim Spanos, John Hettinger, Peter Moore, Deanne Chrystal, Tom Adams

Staff Present: Planning & Zoning Administrator Matt Henry, Town Manager Peter Joseph

Excused Absences: Charlie Cook

Others Present: Peter Kailey, Bruce Bunker, Taylor Beaudin, Tammy Ham

I. CALL TO ORDER by Chairman Pat Romprey at **6:00PM**;

Chairman Pat Romprey called the meeting to order.

II. CONSIDERATION of an application for Site Plan Review submitted by Peter Kailey of Sport Thoma for the construction of a 4000 ft warehouse on Tax Map 106 Lot 004.

Proposal: The applicant seeks to construct a 4,000 sq. ft. warehouse and associated improvements at Tax Map 106 Lot 004.

Planning Board: Acceptance of the completed Site Plan Review Application.

Public Hearing: Approve or Disapprove the Completed Site Plan Review Application.

Jim Spanos recused himself and alternate Tom Adams was seated.

Matt Henry began describing the application and said that it is a pretty straightforward application that has no parking or traffic impacts but requires site plan review because of the size. Site Plan Review regulations call for Planning Board approval upon development of more than 500 square feet of impervious surface area. The applicant requested the following waivers from Article XIV of the Town of Lincoln Site Plan Review Regulations:

#8: Existing and proposed topography of the site at two-foot contour intervals

#9: Soil Mapping units and unit boundaries

#23: Stormwater Drainage Plan Showing:

A: Existing and proposed methods of handling stormwater runoff

B: The direction of flow of the runoff through the use of arrows

C: The location, elevation, and size of all catch basins, drywells, drainage ditches, swales retention basins and storm sewers.

Peter Kailey said that he is requesting the waivers since the site is flat and no additional stormwater will be generated. Matt Henry said that he wanted to bring up the fact that the State Department of Transportation is considering this project a “change of use” even though the town is not. Peter Kailey said he is working with the State of NH filling out the appropriate paperwork in order to allow the project to go forward.

Tom Adams said that just because the site is flat, does not necessarily mean that an engineered Stormwater Drainage plan is not required. Adding a structure with a roof does in fact generate additional stormwater. However, in this case Tom Adams said a waiver was warranted. Tom Adams

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said that on another piece of property, a stormwater plan may in fact be necessary even if the site is flat because of the increase in the impervious surface area.

Peter Moore asked if the warehouse was going to be attached to the existing building and what are the dimensions. Peter Kailey said that the warehouse will be attached and the dimensions are 50' x 80'.

Joe Chenard asked how it would affect employee parking. Peter Kailey said that his employees do not park back there.

Bruce Bunker said that the soil in that area is very porous and they are going to put gravel around the site to soak up any water in order to alleviate drainage issues.

MOTION: Peter Moore made a motion to approve the waivers as presented. Tom Adams seconded the motion. The motion carried unanimously (5-0-0).

MOTION: John Hettinger made a motion to open the Public Hearing. Peter Moore seconded the motion. The motion carried unanimously (5-0-0).

Jim Spanos, who is an abutter to the site, said that he thinks it is a good thing for businesses to expand.

MOTION: John Hettinger made a motion to close the Public Hearing. Peter Moore seconded the motion. The motion carried unanimously (5-0-0).

Peter Moore asked for clarification on what the New Hampshire Department of Transportation (hereinafter "NHDOT") is looking for regarding information or paperwork. Peter Kailey said that NHDOT is worried about additional traffic from tractor trailers backing in and out of the curb cut. Matt Henry said that the approval that the applicant needs to get is called a "driveway permit" because NHDOT considers it a change of use due to the potential traffic change even though no changes to the existing curb cut will exist.

MOTION: Peter Moore made a motion to approve the Site Plan Review with the following conditions. Tom Adams seconded the motion. The motion carried unanimously (5-0-0):

1) The applicant will either submit documentation stating approval from NHDOT for a driveway permit, or documentation from NHDOT that state approvals are not necessary.

VII. CONTINUING & OTHER BUSINESS (Staff and Planning Board Member/Alternates).

John Hettinger read an e-mail from Matt Henry that discussed a conversation with an attorney from the Local Government Center regarding the doctrine of "adverse possession" (e-mail is attached). John Hettinger said that there are developers in town that are denying access to public areas in town and only one developer is providing an easement to the town to walk along the river (Inn Seasons Resort). John Hettinger said that he will not mention the specific names of those who are no longer going to provide easements.

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Peter Joseph said that it is his understanding that adverse possession may only be applied on an individual basis. It would be difficult to prove that every resident in an entire town has used a location for more than 20 years in an open and adverse manner. Tammy Ham said that she is aware of the location in question and she has photos of herself at that location swimming for the past 25+ years. John Hettinger said that he does not think it is appropriate for the Planning Board to grant Site Plan Approval if the applicant is going to deny access to a public area that the townspeople have been using for years.

Deanne Chrystal said that adverse possession typically deals with claiming ownership and “prescriptive easement” deals with an easement that is granted by natural rights to a piece of land. The town may wish to look into obtaining a prescriptive easement. Matt Henry asked Deanne Chrystal if adverse possession deals with both ownership and use of a property. Deanne Chrystal said that she remembers the doctrine as just dealing with ownership while “prescriptive easement” dealing with use.

Peter Joseph said that the town attorney has advised the Planning Board against making approvals conditional upon granting easements to the town.

Tom Adams said that there is a difference between “access” and “use”. “Access” means you can get to the location, while “use” means you can use the entire riverfront property as well as the water.

Joe Chenard said that there is an easement on the parcel in question for the NH Electric Cooperative that has never been used but exists.

Tom Adams asked if The Rapids received its extension at the last meeting. Chairman Romprey answered that it had. Tom Adams provided some history regarding the public areas that the Planning Board was discussing.

Peter Moore suggested that Peter Joseph continue to press for the appropriate easements and have Matt Henry look into what appropriate legal recourse the town had if the easements are not granted. The Planning Board agreed. Deanne Chrystal recommended the Planning Board take the “prescriptive easement” route rather than “adverse possession” since the Town has no interest in owning the property.

Peter Joseph explained the situation with a piece of land owned by the Pemi River Preservation Society (Tax Map 122 Lot 005) but the non-profit no longer exists. The question is what is done with the land when the organization that owns the property goes defunct. Dr. Felgate here in Lincoln was the last president of the Pemi River Preservation Society Board but that Board is no longer operational.

VIII. REVIEW AND COMMENT on the MATRIX REPORTS and OPEN FILES pertaining to:

The Board did not review the matrix reports because there were no changes since last meeting.

IX. PUBLIC INPUT on Specific Issues

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X. ADJOURNMENT:

The meeting was adjourned around 6:50 pm.

Respectfully submitted,

Matt Henry

Dated: March 16, 2011

Pat Romprey, Chairman