

CITY OF LACONIA PLANNING BOARD
6:30 PM City Hall - Armand A. Bolduc Council Chamber
Accepted August 2, 2022

7/12/2022 - Minutes

1. CALL TO ORDER

Chair Peter Brunette called the meeting to order at 6:33 PM

Due to technical difficulties Zoom would not be running for this meeting.

2. ROLL CALL

Members present: Kirk Beattie, Charlie St. Clair, Rich MacNeill, Brett Beliveau, Michael DellaVecchia, Stacy Soucy, Louis Joseph, Scott McWilliam, Peter Brunette

Absent: Bruce Cheney

Alternates Louis Joseph and Scott McWilliam were seated as voting members.

3. RECORDING SECRETARY

Kalena Graham

4. STAFF IN ATTENDANCE

Planning Director Dean Trefethen, Assistant Planner Rob Mora

5. ACCEPTANCE OF MINUTES FROM PREVIOUS MEETINGS

5.I. Acceptance of June 7 minutes

The minutes were accepted by roll call vote with all voting affirmative and P. Brunette and S. Soucy abstaining.

6. PRESENTATIONS

6.I. Proposal of the Draft Natural Resource Chapter of the Master Plan

Conservation Technician Taylor Daigle went over the PowerPoint presentation. The five goals and actions were reviewed. Chair P. Brunette hopes the actions are adopted and that enforcement be included.

Conservation Commission Chair Dean Anson complimented T. Daigle on the chapter and her presentation.

7. EXTENSIONS Note: The purpose of this agenda section is for the board to consider requests from applicants with previously approved projects to extend the deadline dates. The board may also deliberate the request, decide and conduct a final vote at this time. PUBLIC INPUT IS NOT TAKEN ON EXTENSION REQUESTS.

7.I. PL2011-0024SP, 0026CUP(Steep Slope), 0027CUP(Wetlands), 2015-0141SU(BLA), 2018- 0023SU (BLA); 553 Weirs Blvd; Langley Cove Development, request to extend the approval for 291 unit cluster

development and boundary line adjustments

Applicant: Jon Rokeh addressed the board. He explained where the project is at. The applicant has been working with the state on the alteration of terrain permit and recent changes with phosphorus requirements. Plans recently submitted show what is being requested and the applicant is anticipating a successful round. All shoreland permits are in place and hoping to have the wetland application approved by next week.

Motion to approve the one year extension to July 11, 2023 made by K. Beattie, C. St. Clair seconded. All voted in favor with M. DellaVecchia abstaining.

- 7.II. PL2015-0142SPamd; White Oaks Rd, Paugus Woods development; request to extend the approval to amendment to remove lot 33 to allow for second access

Applicant: Jon Rokeh addressed the board. He noted that Paugus woods has started the third phase of the development.

Motion to approve the one year extension to July 11, 2023 made by K. Beattie, C. St. Clair seconded. All voted in favor.

With the large audience Chair P. Brunette with agreement from the board moved applications 9.I and 9.II next.

8. CONTINUED PUBLIC HEARINGS, CONSIDERATION AND POSSIBLE VOTE Note: The purpose of this agenda section is for the Board to continue the Public Hearing for the applicant and the public to provide input. The Board may also deliberate the application, decide and conduct a final vote at this time.

- 8.I. PL2020-0098SPamd1, 0099CUPamd1(perf zoning), PL2021-0067SU; 49-63 Elm/10 Railroad Ave Proposal to amend the site plan and CUP as remanded by the Superior Court

P. Brunette recused himself and Vice Chair S. Soucy was appointed chair for the next application.

Applicant: Scott Everett, Mike Lokken and Ron DeCola, representing Paugus Properties, Paul Fitzgerald, esq. Wescott Law, Barrett Salta, Keith McBey and Tim Burke, from BPS, Andrew Michaud, SW Cole Engineering, and Chad Monterose and Dennis Ludwig, of Rist-Frost-Shumway Engineering were present. Ron DeCola addressed the board. The applicant is seeking approval of the amended site plan that was remanded from Superior Court to show the location of the pilings. He handed out a binder of the mitigation items the Planning Board requested the applicant address.

Landscaping: The proposed landscaping should address one issue. Behind the garage it won't be feasible to put grass so the proposal is woven soil covered with mulch and plants that will be maintained.

Dust: The applicant understands the frustration and proposed P. Brunette to find a company of his choice to power wash due to the dust and the applicant's expense.

Driveway repair and foundation issues were discussed K. McBey, T. Burke and A. Michaud to discuss the seismic study. T. Burke confirmed that no damage to the foundation was found. The foundation is rugged stone and there is cracking but not due to the project. A. Michaud noted two seismic monitors were put down: one on the property line with the church on Park Street and one near the driveway on Park Street. Vibrations over 4.0 is where stress would show and the numbers were below that. Nothing outstanding was seen from the pre and post photos. S. McWilliam asked how far away the church was to the monitor and was told about thirty feet and the Park Street driveway about fifteen feet. July 16 had the highest vibration reading. R. DeCola noted that the monitor was not put in the driveway but near it so there would be no damage as they are driven in the ground.

Fence: M. Lokken went over the retaining wall and a fence would do not good for privacy as the property slopes down from the abutter's. The application is putting a four foot safety fence along the retaining wall. There is a screen fence around the dumpster on the Park Street side of the parking garage. The applicant has removed the pavement walkway that was proposed on the rear of the garage and changed the door to be used as emergency egress.

Lighting: C. Monterose went over lighting. There is no lighting proposed on the emergency door. There is existing streetlights on Park Street and the applicant feels that is enough for that area. Lighting around the building will be hung at roof level and will have motion sensors.

C. St. Clair would have liked better photos of the abutter's driveway. The applicant can get any pictures the board would like.

S. Everette addressed the board. He appreciates the effort of the board. He noted that there has been extensive effort put in by the applicant. One thing is that if a privacy fences is put in along the property lines, it would mean cutting the cherry trees. He feels that the trees are already a natural barrier and that garage is not seen. He hopes the effort put in has been noticed and that an end to this application is in sight as the application was already approved. He understands the abutter and Planning Board's positions.

The public hearing opened at 9:44 PM

Peter Brunette of 15 Park Street addressed the board. He can't respond to any of the materials submitted as he hadn't seen any of it. When he met with the developer's representatives, he asked for copies before the meeting and they said they would look into it. There is no way that a seismologist soil scientist can definitively say what the connection is between the vibrations that were emanating from the pile driving equipment along the property line and any possible damage to the foundation. He did note that he is not aware of any major structural issues with the foundation. He has seen a few cracks but can fix them himself. When he originally asked for the mitigation, he had not been able to inspect himself first.

P. Brunette addressed the driveway. The seismographs were laid at the edge of the driveway, under the cherry trees. All the measurements presented tonight were at ten feet and beyond. The major brunt of the seismic vibration was taken by the driveway. He noted in the current photos of the driveway many of the major cracks have a stripe along them. That stripe is from 2020 when he had all the existing cracks filled with hot tar including the sidewalk. There were no cracks at the end of the the 2020 construction season. Now there are a mosaic of cracks and many are located in the places that were filled. He doesn't have scientific evidence that the vibration caused it and the applicant doesn't have proof they didn't. He feels it a matter of common sense. He had hoped the board would go out for a site visit. He noted that he's not a scientist but understands how waves propagate through soil and the area is sandy with cobbles in the whole area. He gave a brief history of the area. He brought that up because there are bird baths in his driveway that weren't there before. He doesn't feel this his burden to prove. He didn't sell his property because the trust is obligated to his son, not himself. The son is the last of the Brunette line. P. Brunette asked the board to look at the staff report which is asking to approve retroactively the installation of the structures within the setback as part of performance zoning. In the previous application the applicant made a specific performance zoning presentation and no such thing happened here. The board relies heavily on staff for determinations and recommendations and almost always agree with the recommendations. In this case, staff does not recommend any mitigation. Despite the fact that it was staff error that led to this predicament. He doesn't feel the board can do what staff is asking without mitigation. He has been a supporter of the project from the start. He disagrees with the comments on the fence and insists a privacy fence be put in place along the property line but not on the southern line, Elm Street side. He understands the cherry trees will need to be trimmed. He feels the mitigation request is reasonable as well as reasonable to be included as conditions of approval. He feels that what the board is being asked for by the planning director is improper. It is nothing more than an approval of an as built plan and that defeats the whole purpose of having the process to give abutter input. He has seen conditions be put in as mitigation from this board at staff recommendation and feels there is more at work here than just a mere planning board decision.

He feels there is more concern with liability. He will do anything he can to protect the only asset he has left. He will make sure the value is not diminished by a project that he has supported from the start. He does not feel the board has the power to do what staff recommends. C. St. Clair clarified that P. Brunette is asking for something be done with the driveway and fence and was told correct.

S. Everette addressed the board for a few clarifications. He noted that the six items being asked for and have tried to fix. He noted that the emergency door, off the garage when open, doesn't come close to the property and really doesn't want to damage the cherry trees. There was amounts thrown around and is constantly being told "you can afford it" and does not appreciate being strong armed and extorted. C. St. Clair did a site visit and saw the cracks.

P. Brunette rebutted S. Everett's comments on numbers. He brought up the church steeple and money issues and what was offered to help.

M. Lokken addressed the board and rebutted P. Brunette's comments.

Atty Walter Mitchell of Mitchell Group and the City's Legal Counsel addressed the board. He understands the emotions of the individuals but that is not the board's job or focus. He appreciates the fact of the board trying to encourage the two sides to resolve issues on their own. Even though some has been successful, there is nothing more the board can do in that aspect. There are three issues pending: the amended site plan that shows the location of the pilings and the conditional use permit in connection with that, performance zoning and setbacks; the second set of issues are things arisen from the conversations where the applicant has agreed to add or change the plan. Ie the fence, the landscaping and lighting. Those should be part of the approval and denial. Whether the changes are satisfactory to the abutter, that is a separate issue between the two, not the board. The question is are those changes acceptable to the board. Third category is claims of damage. The foundation sounds to be ok. The board does not know the prior condition of the driveway and how much worse it has gotten. The importance of the planning board is to not act like a judge with the power to make decisions with disputes between private parties. The planning board powers are limited to reviewing the site plan. The planning board does not have the authority to make the determination of which version of the driveway is the right one. Neither does it give the power to make the applicant do something if the board agreed with the abutter. He is not present to advocate in either direction. B. Beliveau asked if the board was out of line to require as conditions on things that were agreed to and Atty W. Mitchell added that he doesn't see a risk if already agreed to and confirmed between the parties, but anything where there is a continuing dispute, he would not add.

The public hearing closed at 10:11 PM.

Staff review: Planning Director D. Trefethen read the staff review and gave a brief background. Staff has no disagreement that is something is a structure that it is on the plan. The details are now considered a structure, per the court order and so the reason for the amended site plan. That is the only change on the plan. He suggested adding condition C: the applicant will adhere to the fence detail and the lighting plans as representing during the meeting and include power washing the abutter building at the conclusion of the project.

Atty W. Mitchell brought up HB1661 that was just passed regarding added language to approvals of land use boards that tell the board how to make decisions, for future decisions. He suggested the board make their decision on the understanding that the decision be tentative, not final until the board examine a draft decision prepared by the Planning Director. He suggested a short meeting to discuss a draft decision earlier than the next regular meeting.

Motion to approve the amended site plan with the conditions and recommendations as stated on the staff review adding conditions C, made by C. St. Clair, M. DellaVecchia seconded. Staff will present the finding at the next meeting. The motion passed unanimously.

9. PUBLIC HEARINGS, POSSIBLE CONSIDERATION AND VOTE Note: The purpose of this agenda section is for the Board to have a presentation from the applicant and open a Public Hearing for the public to provide

input. The Board may also deliberate the application, decide and conduct a final vote at this time.

- 9.I. PL2021-008SU amd1, 0021CUP(wet); 224 Endicott St E; Proposal to amend the site plan to add one duplex to the existing two duplex for a total of 6 units

Motion to accept the application as complete made by K. Beattie, C. St. Clair seconded. All voted in favor.

Applicant: Ian McGregor from Northpoint Engineering addressed the board. He apologized for the property owner's absence as he is having emergency surgery. Dave Plunkett represented the property owner. I. McGregor went over the amendment for 2 additional units to make a total of 6 units on the site. The engineering company is aware of the water issues and has been working with the City to make sure their storm water management plan will be sufficient to the requirements. While Northpoint was out on site erosion on the shoulders of Endicott E was bad and probably caused by a clogged culvert from across the street. The proposal includes filling in 702 sq ft of wetland and the State has until early August to approve the application. The original approval was for 12 units so the applicant feels the 6 units will still be fine. They are looking for the board to approve the application with conditions.

The site slopes left to right. On the site visit there was no debris or significant signs of erosion and no definitive source for the water to the abutting property. The water is in high spots instead of low spots. Planning Director D. Trefethen and T. Daigle visited the site and didn't see any signs of erosion on the slope. The city has images from 2016 and that shows similar to now. Staff's opinion after review with many third party opinions is that issue is ground water rather than stormwater runoff. City regulations pertain to stormwater runoff. The two data points are contradictory. Chair P. Brunette asked if the application for the two units were efficient and was told possibly not. Planning Director D. Trefethen noted the wetland could be contributing to groundwater increase but is unsure on who would determine that.

The public hearing opened at 7:32 PM

Abutter input: Charlies Mihle, of 36 Nesledown and Board member of Sundown Condominium addressed the board. He explained the photos submitted and gave history of the property. He has spent time with City staff and the State on the issues. The fear is that after the developer leaves and the homeowners association is left with little money to assist with any damage that might occur. The abutter wants a fully functioning drainage system and is looking for a guarantee.

Mark Granoff, 41 Nestledown and President of the Sundown condominium addressed the board. He thanks C. Mihle for all his work on the issue. He also noted that with the clogged pipe, and all the new concrete from the development along with less vegetation, there will be impacts to surrounding lots. He would like to see the plans work the way they are supposed to and that the City look closely at the plans to make sure they will.

I. McGregor noted that much of the project is not complete yet and still in progress.

Howard Richards, 84 Ashely Dr addressed the board. He noted there is a lot of ledge and lots of runoff since the development started. He has concern about the detention pond failure and what that would do to his property.

C. Mihle noted that the state said the issue is too small for them to do a site visit.

The public hearing closed at 8:01 PM

Staff Review: Planning Director D. Trefethen read the staff review. The wetland permit with the Sate is required. Staff would like to see substantial plantings along the eastly slope to help suck up the water. All of the foundation drains and the gutter system to be hooked up to the new drain system that will go to the detention pond. He reminded the board that the site is still under construction and there are

temporary erosion controls in. He suggested an official third party study to review the proposed stormwater maintenance and confirm whether the issue is stormwater or groundwater. The third building is going to be the catalyst for getting the site improved. The project is approved for the two buildings of four units. Staff has been working with the developer on improving the current drainage system.

Chair P. Brunette asked the applicant if a continuance was an issue and no. B. Beliveau brought up that this month's meeting was later and that leaves only three weeks and questioned a third party review be done by the next meeting. Planning Director D. Trefethen brought up the sewer agreement between the subject lot and Sundown, for protection of both parties. A memorandum of understanding will be provided.

S. Soucy asked why this application didn't go to the Concom and Planning Director D. Trefethen reminded her of the recent changes with wetland size and that this would be exempt.

B. Beliveau noted that if the issue is groundwater then no amount of storm water plans will help with that. He feels that a third party review is necessary to establish where that problem is coming from.

Motion to table the application to August 2, 2022 made by C. St. Clair, B. Beliveau seconded. All voted in favor.

9.II. PL2022-0057SP, 0058CUP(PZ); 141 Water Street; Proposal to redevelop the site for 14 unit apartment building with associated parking and drainage improvements

Motion to accept the application as complete made by S. McWilliam, B. Beliveau seconded. All voted in favor.

Applicant: Peter Howard addressed the board. He first went over the performance zoning aspects of the project. Three reasons: density, side setback and driveway. Density allows for 10 units and the applicant is asking for 14. The building will be at the 5 ft setback but foundation, overhang and drains will be less than the five feet. The driveway off Water Street will be less than the required 50 ft away from the intersection of Water and Fair Streets. The area has a mix of uses surrounding the subject lot. Currently existing are 26 parking spaces and they will keep those but will be rearranged. Internal sidewalk will connect to the existing on Water and Fair Streets. B. Beliveau asked if there would be fence installed on the side of 125 Water St. P. Howard noted that the applicant was not planning on it as it wouldn't leave much room for pedestrian and there are no proposed doors or activities in that area.

C. St. Clair asked for clarification on the reasoning for the setback performance zoning request and it was clarified.

P. Howard continued with the presentation. The apartment building will house 14 units, seven on the first level and seven on the second level with a covered walk in front of the doors. There will be underground gas, water and electric. There will be stone drip edge that will go into a rain garden. There will be a screened dumpster on site. Lighting will be downcast. Currently there are street lights and only a security light is proposed on the back of the building. There could be individual lights at the doors but they wouldn't be spot lights.

The public hearing opened at 8:44 PM

There was no one to speak for or against the application. The public hearing closed at 8:45 PM

Staff Review: Planning Director D. Trefethen read the staff review. B. Beliveau asked if the catch basins run to the water and was told many of the basins in that area run to the river.

Motion to approve the application with the dates and conditions as stated in the staff review made by K. Beattie, R. MacNeill seconded. All voted in favor.

P. Brunette called for a five-minute recess and asked Planning Director D. Trefethen if the next application should be old business and was told the application was tabled at the last meeting.

The board recessed at 8:48 PM and returned at 9:02 PM

10. APPLICATION ACCEPTANCE Note: The purpose of this agenda section is to publicize that a Planning Board application has been submitted AND for the Planning Board to determine if the application is complete enough to begin the review process. PUBLIC INPUT IS NOT TAKEN AT THIS TIME. If the application is accepted the Planning Board will schedule a Public Hearing at which time the application will be heard and public comments will be accepted. Information about applications can be obtained on the city's web site or by calling the Planning office.

11. NEW BUSINESS

Chair P. Brunette returned.

11.I. Nominations AND Election of Officers

C. St. Clair nominated P. Brunette as Chair, K. Beattie seconded; P. Brunette nominated C. St. Clair as Vice Chair, S. Soucy seconded; M. DellaVecchia to remain as Secretary. The motion passed unanimously.

11.II. Discussion of CIP Appointments

Assistant Planner R. Mora noted that CIP is coming up quickly and three Planning Board members and four members at large are needed.

Motion to appoint S. McWilliam, S. Soucy and C. St. Clair made by P. Brunette, B. Beliveau seconded. The motion passed unanimously.

12. OLD BUSINESS

S. Soucy suggested Planning Director D. Trefethen write a letter to the paper on the building height and see what the public thinks.

Planning Director D. Trefethen suggested moving items 12.I, 12.II to the August meeting without objection from the board.

12.I. Performance Zoning Discussion

12.II. Updates on the Lakes Region Facility

13. PLANNING DEPT REPORT

14. LIAISON REPORTS

HDC: C. St. Clair noted that the Commission is still going through the ordinance as well as waiting for Council.

15. OTHER BUSINESS

16. ADJOURNMENT

The meeting adjourned at 10:30 PM

Respectfully,

K. Graham