

City of Rochester Planning Board
Monday October 3, 2022
City Hall Council Chambers
31 Wakefield Street, Rochester, NH 03867
(These minutes were approved on November 7, 2022)

Members Present

Mark Collopy, *Chair*
Robert May, *Vice Chair*
Peter Bruckner
Paul Giuliano
Don Hamann
Mark Sullivan
Dave Walker

Members Absent

Keith Fitts, *excused*
James Hayden, *excused*

Alternate Members Present

Alexander de Geofroy
Michael McQuade
Matthew Richardson

Staff: Shanna B. Saunders, *Director of Planning & Development*
Ryan O'Connor, *Senior Planner*
Ashley Greene, *Administrative Assistant II*

(These are the legal minutes of the meeting and are in the format of an overview of the meeting. A recording of the meeting will be on file in the City Clerk's office for reference purposes. It may be copied for a fee.)

I. Call to Order

Mark Collopy called the meeting to order at 6:30 p.m.

II. Roll Call

The recording secretary, Ashley Greene, conducted roll call.

III. Seating of Alternates

Mr. Collopy asked Matthew Richardson to vote for Keith Fitts.

IV. Communications from the Chair

There were no communications from the Chair.

V. Approval of minutes for September 12 and 19, 2022

Dave Walker made a motion to approve the minutes from September 12 and 19, 2022. The motion was seconded by Don Hamann. The motion carried by a unanimous voice vote.

VI. Opening Discussion/Comments (up to 30 minutes)

A. Public comment

There was no one from the public to discuss any other issues.

B. Discussion of general planning issues

There was no discussion of general planning issues.

VII. Extensions

- A. [Groen Construction, 29 Wadleigh Road](#) (by Jones & Beach) Extension request for an approved Site Plan. Case# 137 – 35-1 – HC – 21 **EXTENSION TO 4/4/2023**

Mr. Hamann made a motion to approve the extension request to 4/4/2023. Mr. Walker seconded the motion.

Mr. Walker asked the reason for the extension request. Shanna Saunders explained that the developer is still working with Department of Public Works for utility infrastructure needs and costs.

The motion passed by a unanimous voice vote.

VIII. New Applications

- A. [35 Industrial Way Management, LLC, 35 Industrial Way](#) (by Norway Plains) 2-lot Minor Subdivision. Case # 230 – 21 – GI – 22 Public Hearing **ACCEPTANCE/FINAL DECISION***

Scott Lawler, Norway Plains Associates, presented the application on behalf of the applicant. Mr. Lawler explained the lot is currently a 27.63 acre parcel that is zoned General Industrial with a portion of it in the Conservation Overlay District. It is an existing manufacture/warehouse/office use building that is 215,740 sf that is serviced by city water and city sewer. There are approximately 1,016 parking spaces that are around the perimeter of the existing building and large parking lot across a wetlands and stream channel. Mr. Lawler explained that the wetlands were delineated by a wetland's scientist, Joseph Nowell. 35 Industrial Management, LLC, is proposing a 2-lot subdivision. The first lot that will be the parent lot will be almost 20 acres and have the existing building and contain 645 parking spaces. The second lot will be 7.65 acres and will consist of 371 parking spaces. The second lot is being created with the intent to sell and redeveloped as part of the business park. Mr. Lawler explained that the new lot line will follow the wetlands and stream. Mr. Lawler explained the proposed lot line is going to mimic the lot line that existed in the 1980s when Cabletron existed. Mr. Lawler discussed the conditional use permit that was submitted to allow the second lot to have parking as its primary use.

Mr. Collopy opened the public hearing. There was no one present to speak on the application, Mr. Collopy brought it back to the board.

Ms. Saunders went over the staff recommendations and discussed the conditional use permit. Ms. Saunders explained that staff recommend accepting the application as complete.

Mr. Walker made a motion to accept the application as complete. Mr. Hamann seconded the motion. The motion carried by a unanimous voice vote.

Ms. Saunders discussed the conditions of approval, including access easements to be shown on the plan and the utility easements be submitted to the City once it is filed. Ms. Saunders discussed the Industrial Park Association requirements included in the conditions of approval. Ms. Saunders discussed the standard conditions of approval.

Peter Bruckner asked if the parking on the parent lot will be sufficient for the businesses within the building. Ms. Saunders explained that the parking on the parent lot meet the requirements for parking.

Bob May asked if access to the lower parking lot will be restricted once the subdivision goes through. Mr. Lawler explained that a crash gate is proposed on the bridge so that emergency vehicles can access as needed but it would not be available for day to day travel.

Paul Giuliano made a motion to approve the conditional use permit. Mr. Hamann seconded the motion. The motion carried by a unanimous voice vote.

Mr. Walker made a motion to approve the application with the conditions as presented. Mr. Hamann seconded the motion. The motion carried by a unanimous voice vote.

B. Myhre Family Revocable Trust, 15 Piper Lane (by Norway Plains) 4-lot Major Subdivision. Case # 250 – 28 – A – 22 Public Hearing **ACCEPTANCE/FINAL DECISION***

Joel Runnals, Norway Plains Associates, presented the application on behalf of the applicant. Mr. Runnals explained that the parcel is just over 7 acres that is being proposed to subdivide into 5 lots. Mr. Runnals discussed that there are currently four dwellings on the property and one dwelling

will be torn down. Mr. Runnals explained one goal of the subdivision is to get each dwelling on its own parcel. Mr. Runnals explained that Lot 28 and 28-1 are the only lots that are large enough to keep the current duplexes on them. The remaining three lots will each have a single-family home on it. Mr. Runnals explained the applicant has also submitted the subdivision to NH DES to get approval. The proposed Lot 28-2 currently shares a leach field with lot 28, but that will end once the subdivision is approved. There will be an easement around the leach field and the well that overlaps the lot line for Lot 28. Lot 28-1 already has an existing well. Mr. Runnals explained that Piper Lane that currently exists will provide access to Lot 28-1 and 28-2, Lot 28 will have access onto Washington Street and Lot 28-3 and 28-4 will need to apply for a driveway permit to get access onto Blue Hills Drive from Department of Public Works once approved.

Mr. Collopy opened the public hearing.

Anne Carter, 6 Blue Hills Drive, asked multiple questions regarding the proposed subdivision. Ms. Carter asked if the proposed lots would still be zones agricultural with the conservation overlay? Ms. Carter asked if the agricultural zone had to change in order to do a subdivision. Ms. Carter asked what the size of the new buildings would be on the proposed lots. Will the lots comply with the Blue Hills protective covenants? Ms. Carter requested a background on the conservation overlay restrictions and what that means. Ms. Carter asked for locations of the new structures and driveways. Ms. Carter asked if a traffic study been conducted on the project. Ms. Carter asked about the leach field located on Lot 28-2. Ms. Carter asked for clarification on the changes of the September 13 submittal. Ms. Carter asked for the results of the soil testing. Ms. Carter asked why the pavement on lot 28 is going to be removed. Ms. Carter read a section from the Blue Hills protective covenants pertaining to the subdivision of lots within Blue Hills Drive. Ms. Carter explained that Lot 28 appears to fall within the Blue Hill Drive protective covenants. Mr. Collopy explained that the Planning Board does not handle the issues within the protective covenant and that it would be a civil matter. Mr. Collopy explained that the Board handles Land Use only. Ms. Carter asked if it is in the norm for the Board to go against what is written in the protective covenants. Mr. Collopy explained that it is not in our prevue and the Board is only here to look at the Land Use. Ms. Carter explained that abutters are concerned about logging that has been done and the road being ruined. Ms. Carter asked why Lots 28-3 and 28-4 won't have access to Washington Street rather than Blue Hills Drive. Ms. Carter discussed if the project is approved will there be additional lighting and sidewalks installed?

Ben Careno, 9 Grey Ledge Drive, asked about the lack of driveway specifications and the types of homes to be on the lots. Mr. Collopy explained that the Board is only looking at the land and only considering the subdivision request and not what will be going on the land. Mr. Careno asked what the next step is after this and how the neighborhood can control what is coming in. Ms. Saunders explained that the board only has jurisdiction over subdivisions and multifamily or commercial development. Duplex or single-family development goes through a building permit. Mr. Careno expressed his concern with the logging that is currently happening and no construction entrance. Mr. Careno discussed his concern with not knowing about the subdivision and the lack of information within the application.

John Polychronis, 41 Blue Hills Drive, said that he has been there for 23 years. Mr. Polychronis explained that he is concerned about Blue Hills in general and has been down to Public Works regarding the road's multiple times but there were only patches placed in the road. Mr. Polychronis explained that at one time Blue Hills was a prestigious neighborhood and to allow people to come in and build more homes would take away from the ambiance. Mr. Polychronis expressed his concern with the numbers of homes being built in the subdivision and the size of the lots.

Renee Jolie, 10 Blue Hills Drive, mentioned that she is part of the Blue Hills protective covenants and was given the rules when she moved in. Ms. Jolie read a rule from the protective covenants that she believes has already been broken. Ms. Jolie explained that the water flow in the neighborhood has been blocked and it now is not flowing into a pond that is located behind her house.

Mark Duhamel, 47 Blue Hills Drive, asked what the addresses of the lots would be because of the Blue Hills convenance. Mr. Duhamel asked how the shared driveway would be managed. Mr. Duhamel asked if the all the lots could have access to Washington Street that way they do not interfere with Blue Hills Drive.

Mr. Collopy asked if Mr. Runnals could explain where the new structures would be and on which lots. Mr. Runnals said that we will not know where the new structures are until the lots are sold and a building permit is submitted. Mr. Runnals explained that Lot 28-2, 28-3, and 28-4 would have a single-family home and the other two lots have existing duplexes on them. Mr. Runnals explained that the numbering of the lots would be taken care of by E911 due to the spacing. Mr. Runnals discussed going through NH DES for potential leach fields and DES requires a 4,000-sf area for potential leach fields. Mr. Runnals explained that DES will first approve the subdivision for the 4,000-sf leach field and then once the lot sells the new owner will have to go through DES for a septic tank as well.

Ms. Saunders went over the process for a new application and the process that the Piper Lane subdivision went through. Ms. Saunders discussed the conditions of approval including the right of way width be increased to 30 feet so that a large size vehicle and manipulate up the driveway. Ms. Saunders explained that the traffic, sidewalks, and lighting was looked at by the different departments and was not required. Ms. Saunders went over the staff report to determine if the application was complete. Ms. Saunders explained that the City does not get involved with the protective covenants as that is an agreement between the land owners and that the applicant is here for an agreement between the applicant and the City codes. Ms. Saunders explained that it would not be unusual for the board to say that any issues with protective covenants be taken care of before the plans are approved. Ms. Saunders discussed staff recommends the application be accepted as complete and that staff recommends approval on the application as it meets all City codes and ordinances.

Mr. Walker asked if the applicant is aware of the protective covenants. Mr. Walker expressed his desire to continue the application until the protective covenants issue is taken care of. Mr. Walker discussed the City going out to look at the damage that the logging may have done to the road.

Ms. Saunders explained that this is the first time staff has heard about the protective covenants.

Councilor Alexander de Geofroy expressed his understanding that the City does not get involved with the protective covenants but said that on the subdivision checklist under the section for copy of protective covenants and deed restrictions is marked NA and feels that that needs to be rectified.

Mark Sullivan asked if the protective covenants is recorded with the registry of deeds but not deed restricted. Ms. Saunders explained that is correct and it is not tied to any wording in the deed, but may be called out in the deed. Mr. Sullivan asked if the protective covenants rules were violated if it would be a civil matter? Ms. Saunders said yes.

Mr. May expressed his support to continue the application and the public hearing should not be closed until the protective covenants is sorted out and have the applicant come back in November. Mr. May expressed his concern with allowing the abutters to educate themselves more with what is going on.

Paul Giuliano asked if the property is subject to the same deed restrictions as the abutting properties. Mr. Runnals explained that he is not sure, but he was under the impression that it is not part of the Blue Hills protective covenants. Mr. Giuliano expressed his support for a continuance.

Mr. Runnals explained the correct abutters were notified and some of the public that spoke were not direct abutters.

Mr. Giuliano made a motion to continue the application to the November 7, 2022 meeting to allow the applicant to figure out if the protective covenants apply to the parcel in question and if the provisions are being met. Mr. Walker seconded the motion. The motion carried by a unanimous voice vote.

Mr. Collopy explained to the public that the public hearing will still be open for the November 7, 2022 meeting and that there will be no written notification of the public hearing.

C. Sofield Apartments, LLC, 287 Rochester Hill Road (by Berry Surveying) Preliminary Design review for proposed 30-unit residential development. Case # 254 – 18 – A – 22 Public Hearing *PRELIMINARY*

Chris Berry, Berry Surveying & Engineering, presented the application on behalf of the applicant. Mr. Berry explained that the former landowner hired Berry Surveying to take the existing property and remove them from on site sewage disposal systems and put them on sewer force main system to connect them to City sewer. After the connection was made the property was sold to the current land owner and applicant. Mr. Berry explained the process that the applicant has gone through to determine the density that would be allowed on the property with it being within the RPZ Zone of the airport. Mr. Berry explained that the solution was to bring the density to the rear of the subdivision, which removes it from the RPZ Zone and increases the amount of open space. Mr. Berry explained that the proposed project is to realign the entrance to the project. Mr. Berry discussed the zoning board approval for the project. Mr. Berry discussed the direct abutters concerns and how the applicant will be addressing those concerns, including a fence along the property line and the drainage concerns which will be looked at during the drainage analysis. Mr. Berry discussed the complete streets project put on by NH DOT and if it will reach the project entrance and if it does the applicant will be designing the infrastructure at the entrance of the site to allow for the complete streets project to easily complete their project in front of the property. A traffic study will be conducted to determine if any additional lanes are needed and the applicant has asked DOT if they need a scoping meeting to make sure the level analysis that is being conducted is adequate. A wetlands and soil scientists delineated the wetlands and conducted soil tests. An alteration of terrain permit is required for this project and will be obtained. The technical review group requested additional amenities. Mr. Berry explained the potential to move the Coast Bus stop closer to the proposed project and the industrial park.

Mr. Collopy opened the public hearing.

James Bress, 271 Rochester Hill Road, read the copy of his letter that he sent to the board.

"We are writing to express our concerns about the Sofield Apartment expansion which abuts our property. We have reviewed the preliminary plans which were submitted to the zoning board. The variance was approved for the apartment expansion. We did not oppose the variance and we do want to stop the project in any way.

We do have two concerns.

1. We met with the owner Bill Goldstein and we have a verbal agreement that he will install an eight foot solid fence along the entire property line and leave all trees along the property line intact.

This is noted under the Rochester Zoning Ordinance Chapter 276 Article 27 (Miscellaneous Provisions) 275-27.1 B (Buffers for residential property, multifamily development).

Since this was only a verbal agreement we request that the planning board make this a stipulation of the approval.

2. We are concerned about how close to the property line the preliminary plans place one of the buildings. There is standing water along the property line well into the spring. The enclosed pictures show the water in May of this year. We are concerned about water flowing onto our property after the new buildings are built.

We are asking if the building could be built further from the property line and that adequate drainage be in place to avoid any flow onto our land.

Sincerely,

James and Judy Bress

Saved as Sofield Apartments"

Mr. Bress explained the need for the fence due to people walking onto their property and garage ending up on their property. Mr. Bress is requesting a solid 8 foot high fence and along the entire property line and the trees be left in place.

Judy Bress, 271 Rochester Hill Road, expressed her concern with the trash along their property line. Ms. Bress explained that she has had squatters on her property that came from Sofield apartments and a man laying in the field. Ms. Bress discussed her concerns about the water located on her property line and Sofields property line. Ms. Bress expressed her concerns with what would happen when excavation occurs. Ms. Bress asked that the buildings not be so close to the property line.

Mr. Collopy closed the public hearing.

Ms. Saunders discussed the design review process and the TRG process that the applicant went through. Ms. Saunders explained there is no staff review, just TRG comments from each department so that the applicant may redesign the project as needed and once ready can resubmit.

Mr. Walker asked if there was any action for the board to take? Ms. Saunders explained there is no action for the board to take and it is simply input the applicant and staff are looking for. Mr. Walker asked if an 8 foot solid fence would be allowed in this zone. Ms. Saunders confirmed from the Ordinance that only a 6 foot fence is allowed and the applicant would need to get a special exception for an 8 foot fence.

Mr. May asked for clarification on the RPZ Zone and in relation to this property. Ms. Saunders explained that the triangle zone that comes out from the runway is extremely restrictive and there is the airport overlay that comes out 3 miles from the airport that has height restrictions. Ms.

Saunders explained that Planning staff asks the applicant to reach out to the airport to determine if the proposed project meets airport requirement.

Mr. Bruckner explained the airport overlay district and the landing zone in relation to this project and how any restrictions appear to have been met. Mr. Bruckner requested the contours for water issues be placed on the next set of plans. Mr. Bruckner expressed his support to keep the tree line intact.

Mr. Collopy discussed his desire to see more green space and possibly tandem garages and some green space between. Mr. Collopy expressed his concern for how wet the property could be.

Mr. Bruckner expressed his concern for sustainable design and to make sure the abutters concerns are addressed.

Mr. May expressed his concern with addressing any stormwater and mitigation concerns ahead of time.

D. Pool Players, LLC, Steven Fleming, 43 Highland Street Conditional Use Permit to allow a billiard hall/bar and restaurant. Case # 104 – 56 – NMU – 22 **Public Hearing ACCEPTANCE/FINAL DECISION***

Application moved to the end of the meeting to allow the applicant time to attend the meeting.

Steven Fleming, co owner of Pool Players, LLC, presented the proposed project. Mr. Fleming explained that currently Pool Players, LLC, owns Busters Billiards in Somersworth for the last 5 years. Mr. Fleming explained that they have outgrown their current location and are looking to purchase and rebrand at the 43 Highland Street location, as Eastside Tavern and Billiards.

Mr. Collopy opened the public hearing.

Ms. Saunders read an anonymous letter from a direct abutter.

“This property borders residential properties on each side. I believe in my 28 years of being a homeowner in East Rochester the property use prior to this current proposed venture was not in use on a full daily/weekly basis whereas this enterprise will be.

To promote privacy and a reduction in noise volume the installation of a fence bordering the residential properties would be a benefit for all parties concerned.

This would also deter trespassing onto privately held land. Without fencing the inclination by some patrons who may see what appears to be a walking trail at the back of the parking lot (previously the old railroad line) may entice someone to take a stroll on these privately held lands.

If this transpires, landowners may be subject to liability should anything untoward occur.”

Mr. Fleming explained that he would put up no trespassing signs every 50 feet along the property line at his expense but believes that a fence would not be necessary and is concerned about the cost.

Ms. Saunders discussed the conditions of approval and explained that the CUP is required for the billiards and not for the restaurant/tavern. Ms. Saunders explained the architectural design needs

to be reviewed by a third-party fire protection engineer. A commercial industrial wastewater questionnaire which is required for restaurants.

Mr. Walker made a motion to accept the application as complete. Mr. Hamann seconded the motion. The motion carried by a unanimous voice vote.

Mr. Sullivan asked for more detail for the proposed project. Mr. Fleming explained that there is currently 13 pool tables, which they plan to keep, and there will be a 30-35 seat bar and there will be a full kitchen installed. Mr. Fleming explained there will be outdoor dining. Mr. Fleming explained there will be entertainment on the weekends and will be open until 1am on Friday and Saturdays. Mr. Sullivan asked if there will be a security system? Mr. Fleming explained there will be a security system and plenty of lighting in the parking lot. Mr. Sullivan asked if there would be on site security. Mr. Fleming explained there will be security inside on the busier nights and a doorman. Mr. Fleming said they have been in business for 33 years and never had any issues in the past.

Mr. McQuade asked if they are using the current building or expanding at all. Mr. Fleming explained they are going to use the current building as is.

Mr. May asked about the Police Department comments during TRG. Ms. Saunders explained that the Police Department came up with the condition to register the security system with them. Ms. Saunders explained the Police Department checked into the business and did not find any problems.

Mr. Walker made a motion to approve the waiver for topography. Mr. Hamann seconded the motion. The motion carried by a unanimous voice vote.

Mr. Walker made a motion to approve the application. Mr. Hamann seconded the motion. The motion carried. Mr. Giuliano opposed.

IX. Other Business

A. Planning Update

Ms. Saunders announced that Ryan O'Connor, Senior Planner, will be attending Planning Board meetings going forward.

B. Other

There was no other business to discuss.

X. Adjournment

Mr. Walker made a motion to adjourn the meeting at 8:00 p.m. Mr. Hamann seconded the motion. The motion carried by a unanimous voice vote.

Respectfully submitted,

Ashley Greene,
Administrative Assistant II

and

Shanna B. Saunders,
Director of Planning & Development