

City of Rochester Planning Board
Monday November 2, 2020
City Council Chambers
31 Wakefield Street, Rochester, NH 03867
(These minutes were approved on November 16, 2020)

Members Present

Nel Sylvain, *Chair*
Mark Collopy, *Vice Chair*
Peter Bruckner
Tim Fontneau
Daniel Rines
Robert May
Mark Sullivan
Dave Walker

Members Absent

A. Terese Dwyer, excused

Alternate Members Present

Paul Giuliano
Donald Hamann
Lance Whitehill

Staff: Shanna B. Saunders, *Director of Planning & Development*
Crystal Galloway, *Planning 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.)

Mr. Sylvain called the meeting to order at 7:00 p.m. and made the following statement:

Good Evening, as Chairperson of the Planning Board I am declaring that an emergency exists and I am invoking the provisions of RSA 91-A:2, III (b). Federal, state, and local officials have determined that gatherings of 10 or more people pose a substantial risk to our community in its continuing efforts to combat the spread of COVID-19. In concurring with their determination, I also find that this meeting is imperative to the continued operation of City government and services, which are vital to public safety and confidence during this emergency. As such, this meeting will be conducted without a quorum of this body physically present in the same location.

Public Input: the Planning Board will be allowing the public to enter Council Chambers and speak in person during the Public Hearing portion of this meeting. In an effort to adhere to CDC guidelines: enter only at the front Wakefield Street entrance and exit on the side closest to the police department and adhere to 6-foot social distancing while inside. Hand sanitizer and facemasks will be available at the Wakefield Street entrance. Participants will be admitted into Council Chambers one at a time to speak, and will exit directly thereafter. Seating in Council Chambers will not be available for the public during meetings.

Please note that all votes that are taken during this meeting shall be done by Roll Call vote.

Let's start the meeting by taking a Roll Call attendance. When each member states their name, also please state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know law. Additionally, Planning Board members are required to state their name each time they wish to speak.

The Planning Secretary conducted the roll call. All Planning Board members were present, with exception of Ms. Dwyer. In addition, all Planning Board members indicated that they were alone in the location from which they were connecting remotely.

III. Seating of Alternates

Mr. Whitehill voted in place of Ms. Dwyer.

IV. Communications from the Chair

Mr. Sylvain reminded everyone to vote on Tuesday.

V. Suggested Zoning Amendment – Murals

City Attorney Terence O'Rourke said after researching, having conversations with Staff and the speaking with the ACLU the definition of a mural needs to be content neutral. He explained government can regulate size, commercial, number, duration, location, aesthetics, lighting and illumination, animation, and materials. Mr. O'Rourke said Staff will be creating a maintenance regulation to make sure property owners are maintaining the murals.

Mr. Sylvain asked if an applicant came before the Board with a proposal that contained profanity would the Board be able to correct it. Mr. O'Rourke said it's the First Amendment and the government cannot regulate it. Mr. O'Rourke went on to say most of the issues would be worked out with the property owners as most of the businesses are tenants.

Mr. Bruckner explained murals are a collaborative effort between City Boards, Commission, and Departments. He said the City has the Arts & Culture Commission which can help walk an applicant through the process. Mr. Bruckner used the City of Nashua as an example and encouraged the Board to take a tour of the city to view the murals.

Mr. Bruckner said he looks at the Arts & Culture Commission as an anchor for the Downtown Master Plan to increase art in the downtown development projects.

Mr. Walker said it was stated in the draft application by the Arts & Culture Commission nothing would be approved with profanity, nudity, or politics. He went on to say the City Attorney just told the Board government cannot regulate content. Mr. Bruckner said the Commission wouldn't disapprove the project but they would help the applicant to bring the project together.

Mr. Fontneau said he's had doubts about the mural ordinance from the start but maybe as a part of the sign ordinance that says we allow murals to be done under the guidance of the Arts & Culture Commission.

Mr. Guiliano said no one can anticipate what someone will find offensive. He asked if the Board were to grant a use and someone found the mural to be objectionable how would it impact the City. Mr. O'Rourke said the

City wouldn't have liability because the City does not have the ability to prevent protected speech from going up outside of the time, manner, and place regulations.

Mr. Collopy said he is concerned about impacts on abutters. He said he believes they should be notified and be able to speak on it.

Mr. Sylvain suggested depicting where murals would be allowed in the City. Ms. Saunders said they would be allowed in the Neighborhood Mixed Use, Downtown Commercial, Office Commercial, Highway Commercial, and Granite Ridge Development zones.

Mr. Sylvain suggested the artist meet with the Arts & Culture Commission then go before the Planning Board for a Conditional Use Permit.

A motion was made by Mr. Bruckner and seconded by Mr. Rines to table the discussion until the November 16, 2020 workshop meeting. The motion carried unanimously.

VI. Approval of Minutes

A motion was made by Mr. Walker and seconded by Mr. Rines to approve the October 5, 2020 meeting minutes. The motion carried unanimously by a roll call vote.

VII. New Applications

A. Tedeschi Contracting, LLC, 71 Estes Road

Ray Bisson of Stonewall Surveying presented the plan for a two lot subdivision. He explained the majority of the rear of the parcel is wet so they only surveyed the front portion of the property. Mr. Bisson told the Board there is an existing house that will be divided off to create another building lot.

Mr. Bisson said they are requesting a waiver from Section 3.5 for a complete boundary survey and delineation of all of the wetlands.

A motion was made by Mr. Walker and seconded by Mr. Rines to accept the application as complete. The motion carried unanimously by a roll call vote.

Mr. Sylvain asked if there was any input for the public hearing. There was none; Mr. Sylvain brought the discussion back to the Board.

A motion was made by Mr. Walker and seconded by Mr. Bruckner to close the public hearing. The motion carried unanimously by a roll call vote.

Ms. Saunders stated that staff supports the waiver request because staff has all the necessary details for the subdivision based on the survey that was provided. She reviewed the recommended conditions of approval.

Mr. Walker asked if there is a spot for a proposed well. Ms. Saunders said there is municipal water at the site.

A motion was made by Mr. Walker and seconded by Mr. Collopy to approve the waiver request. The motion carried unanimously by a roll call vote.

A motion was made by Mr. Walker and seconded by Mr. Rines to approve the subdivision with the conditions previously set forth. The motion carried unanimously by a roll call vote.

B. Packy's Investment Properties, LLC, 17 Sterling Drive

Scott Lawler of Norway Plains Associates presented the preliminary plan to construct four self-storage units. Mr. Lawler said the site has been surveyed and wetlands have been delineated. He said they are considering 39 outdoor parking spaces for storage of boats and RV's.

Mr. Lawler said they are proposing a 24 foot wide paved driveway access with a one-way directional flow around the buildings.

Mr. Lawler explained this will be an unmanned facility so they will be seeking a waiver from the parking requirements.

Mr. Lawler said the applicant is considering installing a fence, most likely in the rear or along the sides.

Ms. Saunders said this is a preliminary application so the Board should feel free to discuss.

Mr. Fontneau if there will be any specific concerns with outdoor vehicle storage in the aquifer protection overlay. Ms. Saunders explained the lot is within the aquifer protection overlay but the development is not within it.

Mr. Fontneau asked if the site is visible from Route 11. Mr. Lawler said it is not visible because it is too far below grade plus there is a commercial building in front of it.

Mr. Collopy asked what the color scheme will be as they should blend into the environment.

Mr. Walker asked what type of lighting there will be. Mr. Lawler said they will have traditional wall mount lights and will adhere to the City lighting ordinance.

Mr. Walker said he agrees with the police departments TRG comment stating fencing needs to be around the site with an electronic gate.

Mr. May said he is concerned with potential vandalism. Mr. Sylvain said security is going to be a necessity.

C. Waterstone of Rochester, 127 Marketplace Boulevard

Patrick Crimmins of Tighe and Bond explained the application for a modification to allow a restaurant with a drive-thru. He said they are proposing to modify the parking area in order to fit a seven car queue drive-thru. Mr. Crimmins said there is more than enough parking spaces on site to keep with parking requirements. Mr. Crimmins explained they have modified the entry and included a mountable island that will direct traffic to the right so that all cars entering the driveway will be forced to go right into the parking lot and into the drive-thru.

A motion was made by Mr. Walker and seconded by Mr. Rines to accept the application as complete. The motion carried unanimously by a roll call vote.

Ms. Saunders explained the TRG had concerns regarding the design of the site plan. She said staff has worked with the applicant to re-design the plan and she's confident all the issues can be worked out. Ms. Saunders said staff recommends the Board approve the application.

Mr. Fontneau said he is confident all issues can be resolved but he would like to see the plan be amended with the proposed amendments and come back.

Mr. Whitehill suggested a landscaped island with curbing to help keep cars in their lane. Mr. Crimmins explained the drainage would have to be changed if curbing is used, but they could look at doing something decorative on the pavement.

A motion was made by Mr. Fontneau and seconded by Mr. Walker to continue the application to the November 16, 2020 workshop meeting to allow the applicant to make the proposed amendments to the plan. The motion carried unanimously by a roll call vote.

VIII. Other Business

A. Review of 2021 Planning Board meeting dates

Ms. Saunders told the Board staff has added a few additional days for TRG review time between application submittal and the Planning Board meeting.

A motion was made by Mr. Walker and seconded by Mr. Bruckner to accept the 2021 meeting dates. The motion carried unanimously by a roll call vote.

B. Discussion of Planning Board Retreat

Ms. Saunders said the Retreat will be held Monday December 14th at Frisbie Conference Center. She said staff has asked Economic Development, the Fire Department, Building, Zoning & Licensing, and Public Works to give presentations on upcoming projects their departments are working on.

C. Other

There was no other business to discuss.

IX. Adjournment

A motion was made by Mr. Walker and seconded by Mr. Fontneau to adjourn at 8:41 p.m. The motion carried unanimously by a roll call vote.

Respectfully submitted,

Crystal Galloway,
Planning Administrative Assistant II

and

Shanna B. Saunders,
Director of Planning & Development