

City of Rochester Planning Board
Monday February 1, 2021
Virtual Meeting
31 Wakefield Street, Rochester, NH 03867
(These minutes were approved on February 22, 2021)

Members Present

Nel Sylvain, *Chair*
Mark Collopy, *Vice Chair*
Peter Bruckner
A. Terese Dwyer
Tim Fontneau
Robert May
Mark Sullivan
Dave Walker

Members Absent

Daniel Rines, absent

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.

Providing public access to the meeting by telephone: At this time, I also welcome members of the public accessing this meeting remotely. Even though this meeting is being conducted in a unique manner under unusual circumstances, the usual rules of conduct and decorum apply. Any person found to be disrupting this meeting will be asked to cease the disruption. Should the disruptive behavior continue thereafter, that person will be removed from this meeting. The public can call **857-444-0744** and use conference code **843095**. Some meetings will allow live public input, however you must have pre-registered online, otherwise, the meeting will be set to allow the public to "listen-in" only, and there will be no public comment taken during the meeting.

(Please note: In order to notify the meeting host that you would like to speak, press 5* to be recognized and unmuted)

Public Access Troubleshooting: If any member of the public has difficulty accessing the meeting by phone, please email crystal.galloway@rochesternh.net.

Roll Call: 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 the exception of Mr. Rines who was absent. 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 Mr. Rines.

IV. Communications from the Chair

There was no communications from the Chair.

V. Approval of Minutes

A motion was made by Mr. Walker and seconded by Mr. Collopy to approve the January 25, 2021 meeting minutes. The motion carried unanimously by a roll call vote.

VI. Discussion to expand the Downtown Commercial zone to include a parcel at 13 Sawyer Avenue

Michael Scala, Director of Economic Development explained the City owns the parcel at 13 Sawyer Avenue that currently has a pump station on it. Mr. Scala said a developer saw the parcel after talking with staff and is interested in developing it for multi-family housing. Mr. Scala explained the issue is it is currently zoned R2 which allows for multi-family housing however, it is in the 5,000 square foot density ring which would only allow for about 26 units. Mr. Scala said this developer is looking to add 85 to 90 units and in order to do that the parcel would need to be rezoned downtown commercial to fall under the special downtown overlay district.

Ms. Saunders explained most of the surrounding parcels around the front are downtown commercial. She said it goes along with the plans the city has for South Main Street and the Planning Department supports the change.

Mr. Sylvain asked if the developer is proposing townhouses or condos or will it be an apartment complex. Mr. Scala said the current plan is for 80 to 90 units in one building. Mr. Sylvain asked if there will be a commercial component on the first floor. Mr. Scala explained parcels on Sawyer Avenue does not require a commercial use.

Ms. Dwyer asked what type of apartments are they proposing and if our roads can handle that many units. Mr. Scala said they are proposing one bedroom units, he believes there is sufficient water with the pump station on site but they won't know anything concrete until the developer does more tests. Ms. Saunders reminded the Board if this moves forward the developer will need to go before the Board with full engineered plans.

Mr. Fontneau said the Board needs to keep in mind there are parcels to the rear and sides that are zoned R2.

Mr. Collopy said he is concerned with unintended consequences to legal ramifications to deny certain projects because the parcel has been rezoned.

Mr. Bruckner what the setbacks are that might impact the abutting properties that are zoned R2. Ms. Saunders explained in the downtown commercial district there is a build to line of five feet for all commercial buildings and a build to zone of 5 feet to 10 feet for all noncommercial buildings. She said the intent is to create a streetscape in the downtown zone.

Mr. May said the Board needs to be careful of spot zoning, not so much with this parcel as rezoning justifies itself with proximity to downtown commercial zones.

Mr. Sullivan said it's important to note that the city owns this parcel and will have control of what gets developed.

Mr. Whitehill asked what the height restrictions are for the R2 and downtown commercial zones are. Mr. Scala said it is a five story maximum and a two story minimum.

VII. Consent Agenda

A. Burns, Raber/Brooks, City of Rochester, 1 & 3 Walnut Street & 184 North Main Street

B. Decoeur Realty Trust, Lawrence Boudreau & City of Rochester, 168 North Main Street

Ms. Saunders explained these are two minor lot line revisions that are needed to support the Strafford Square round-about.

C. New Style Homes, Hayes Hill Road

Ms. Saunders explained this development falls under the 5 year exemption for impact fees. She said staff recommends approval of the consent agenda.

A motion was made by Mr. Walker and seconded by Mr. Collopy to approve the consent agenda with conditions as stated. The motion carried unanimously by a roll call vote.

VIII. New Applications

A. EIP Communications II, LLC, 156 Lowell Street

Attorney Brian Grossman presented the application to construct a wireless communication facility. He said they have received a Special Exception from the Zoning Board to allow the tower.

Mr. Grossman went on to explain this tower would help close a coverage gap for A T & T along the Spaulding Turnpike, Rochester Hill Road, and Lowell Street.

Mr. Grossman said they are proposing to construct up to 150 foot tower with a six foot lightening rod within a 50' x 50' compound. He went on to explain it will be a monopole design, galvanized steel grey that is non-reflective.

Mr. Grossman said the pole will be 156 feet from the nearest property line and after construction there will only be traffic one to two times a month.

Mr. Grossman said they are requesting two waivers, the first is for monumentation, it's a large parcel and some of the monumentation doesn't exist, and the second is for stormwater, they ask that they be able to provide the stormwater information at a later time.

Mr. Sylvain opened the public hearing.

Ms. Saunders read the following:

Board members,

My name is Scott Thorp. I live at 156 Lowell Street. Once again I come before you to oppose the proposed placement of a cellular communication tower at 156a Lowell Street. My property is located directly between Lowell Street and where the proposed tower is to be built. My house and land were subdivided from the larger lot owned by Mr. Casavant. My backyard continues into an open field which looks at the spot where the tower will be. When I purchased the house from Mr. Casavant we talked about the views and the only thing I would ever see from my backyard would be the house he planned on building. I noticed in the submitted package the tower is moved back a bit. It will still be extremely visible from my backyard. While I appreciate it has moved back some I feel the tower could still go back more. One of the base criteria for an exemption is the proposed use not being obnoxious to the neighborhood. I am the neighbor that will have the most direct view and feel the site will be obnoxious. When this project was proposed in 2014 many asked about placing the tower components on an existing tower somewhere in the city. One suggestion was located near the corner of Lowell and Tibbetts Road. This was not allowed as I believe that tower was used for aviation purposes. Since then the tower has been removed. Consideration should be given to that site as the access road, utilities and lot preparation possibly currently exist in good condition. I also reviewed the zoning board of adjustment notice of decision case number 2014-05 dated 9/11/2014. In summary it states the exception was approved with stipulations. Those listed are for the setback of the tower and underground utility lines. An effort has been made to move the tower back but not enough. The underground utilities are required and listed in the subdivision plan from when the property was subdivided. For these reasons I again oppose the project.

Thank you,
Scott Thorp

There was no one else from the public who wished to speak; Mr. Sylvain brought the discussion back to the Board.

Ms. Saunders said staff recommends the Board find the application complete. She said staff further recommends the Board grant the waiver for monumentation.

Ms. Saunders told the Board Staff does not recommend approval of waiver two for stormwater. She said Public Works has concerns and asked that certain conditions be met.

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

Ms. Saunders said Staff recommends the Board approve the application with conditions set forth.

Mr. Grossman said they asked for the stormwater waiver so they could move forward and they are happy to supply the items Public Works is asking for as a condition of approval.

Mr. Bruckner suggested the applicant talk to Pease to accelerate the FAA approval as he does not believe there will be an issue with the tower and air traffic.

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

A motion was made by Mr. Walker and seconded by Mr. Collopy to deny waiver request for stormwater. The motion carried unanimously by roll call vote.

A motion was made by Mr. Walker and seconded by Mr. Collopy to approve the site plan with the conditions stated. The motion carried unanimously by a roll call vote.

IX. Other Business

Ms. Saunders told the Board she heard back from both the Fire Department and the Police Department regarding any ordinance changes. She said the Fire Department had an ordinance change regarding nuisance alarms. The Police Department didn't have any ordinance changes but said if the Board ever has any questions to reach out and they would be happy to attend a meeting.

Ms. Saunders informed the Board there will be lead paint training. She said Planning and Economic Development have been working together to reach out to the multi-family property owners to alert them about the dangers of lead paint. NH Housing has money available to help multi-family property owners that provide housing to low to moderate income residents to help mitigate and take care of the lead paint. Ms. Saunders said there will be a workshop on childhood lead poisoning on Monday February 8th.

Ms. Saunders told the Board the City received a letter from the Mayors Joint Taskforce on Homelessness, they are asking the City of Rochester, Dover and Somersworth identify existing and potential Planning and Zoning related barriers to achieving creating affordable housing for all. Also identifying Planning and Zoning related opportunities to achieve affordable housing and provide their findings to the Fidelity by June 30, 2021.

Mr. Walker said he received a letter from a constituent who is building a home down the street from her current home is was told she has to pay impact fees. Mr. Walker said there needs to be a change to the ordinance to allow a waiver for single family homes.

Ms. Saunders explained the purpose of the impact fee is to pay for the impact of the new square footage that is being added. Mr. Walker said the school impact is nothing and city impact is minimal since the family is only moving down the street. He said the ordinance was not intended for single family homes, it was intended for large developments.

There was a brief discussion regarding waiving impact fees for the larger developments but a single family lot is made to pay.

Ms. Saunders explained the waivers for the larger developments is only for a few years, they are for the developments that were in the five year exemption. She said the five year vesting rule will end and all new development will be charged the impact fees.

Mr. Sylvain said when the Board looked at impact fees originally, the Board did not vote on the criteria or the ordinance, they only voted on the fees. He said the Board did not have the ordinance or criteria before them to review to make a true decision.

Mr. Hamann reminded the Board that any developer to get approval now is subject to the impact fees. He said the only developers getting waivers now are the ones that already had approvals and started development before the impact fee ordinance was implemented.

Mr. Giuliano reminded the Board the City Attorney told them it is well within its right to suspend the collection of impact fees. He said it might be a good time to do that so the Board and the Council have enough information to make a better decision about how to levy impact fees.

Mr. Sylvain asked Mr. Walker to bring this discussion up at the next City Council meeting.

X. Adjournment

A motion was made by Mr. Walker and seconded by Mr. Collopy to adjourn at 8:22 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