

PLANNING BOARD MINUTES
WEDNESDAY, APRIL 27, 2016
MUNICIPAL BUILDING COUNCIL CHAMBERS – 7:00 P.M.

Present: Michael Costello, David Thompson, John Beckett, Jeremy Chubbuck, Phil Ruck, Lisa Buck and Christa Schwintzer.

Absent: Judd McIntosh and Jason Charland.

Michael Costello was designated a voting member.

Acceptance of the agenda.

JOHN BECKETT MOVED ACCEPTANCE OF THE AGENDA. DAVID THOMPSON SECONDED THE MOTION. MOTION UNANIMOUSLY APPROVED.

Approval of the minutes of March 16, 2016.

CHRISTA SCHWINTZER MOVED APPROVAL OF THE MINUTES OF MARCH 16, 2016. JOHN BECKETT SECONDED THE MOTION. MOTION UNANIMOUSLY APPROVED.

Public Hearings.

- a. An amended site plan review request by Penobscot Valley Dermatology, who wish to expand their parking area at 381 Main Street, Tax Map 34 Lot 2 in the C-2 zone.

Dr. Orville Hartford explained the reason for the expanded parking lot not going in when originally built was the cost.

Fred Marshall from Plymouth Engineering explained the expansion is for 19 spaces on the northeast side of the building. They were going to pave the fire lane on the west side of the building and eliminate the traffic island but this has changed. They are still keeping the 19 and 13 spaces and have 2 handicap spaces on the front and relocate the 2 handicap spaces on the side to the front of the building.

Mandy Olver has reviewed the stormwater and has no concerns. *Quite a bit of Fred Marshall's presentation was inaudible due to paper shuffling, etc. A letter from Mandy was included in the board's packets.

Jeremy Chubbuck asked if considerations had been made for lighting. Fred Marshall felt it is adequate but the single fixtures could be changed to doubles if needed.

Phil Ruck asked if a traffic movement permit was needed and was told no.

Evan Richert went through his report to the board. The rain garden is working well and Mandy's review on stormwater was that she is satisfied that the model is working properly and is adequate for this site.

There is a vegetated fire lane on the south side of the site that the applicant was proposing to pave, but has since decided not to at this time. The traffic island that they were proposing to remove will remain

as it is for safety reasons. A substantial vegetative buffer remains between this facility and the next property.

The public hearing was opened. There were no questions, comments or concerns.

The public hearing was closed.

Phil Ruck read Evan Richert's findings of fact into the record:

1. Compliance with Town ordinances and codes – no concerns from board members.
2. Utilization of the site – no concerns from board members.
3. Traffic, parking and pedestrian access – no concerns from board members.
4. Stormwater management – no concerns from board members.
5. Erosion control – no concerns from board members.
6. Natural features – no concerns from board members.
7. Previous findings – no concerns from board members.

LISA BUCK MOVED TO ALLOW PENOBSCOT VALLEY DERMATOLOGY TO EXPAND THEIR PARKING AT 381 MAIN STREET, TAX MAP 34 LOT 2 IN THE C-2 ZONE AS PRESENTED. JOHN BECKETT SECONDED THE MOTION. MOTION UNANIMOUSLY APPROVED.

- b. A contract zone request by Aaron Stupakewicz, d/b/a Thai Kitchen to change the zoning of 12 and 14 Park Street, Tax Map 19-4 Lots 99 and 100 from MDR and HDR to C-2 for a take-out restaurant.

Steve Ribble, Landscape Architect from Concepts By Design, spoke about the request. 12 Park Street (in the MDR zone) and 14 Park Street (in the HDR zone) are owned by Aaron Stupakewicz. 12 Park Street is a 3 unit multi-family dwelling and 14 Park Street is a 6 room boarding house with a home occupation of the Thai Kitchen. The business has flourished and it now exceeds a home occupation so they are requesting a contract zone to C-2. He feels the two lots can accommodate the off-street parking. Since the business has been at this location, there have been no accidents from the business, congestion, concerns or disputes from the business. Currently there are 7 spaces. Phase 1 would add 2 spaces to 12 Park Street to be used by tenants and employees. If they exceed 40 end trips during peak hours they would add as Phase 2 three more spaces and widen the driveway which would encroach on 12 Park Street. A small expansion to the restaurant of 250 sq. ft. is proposed to adhere to code requirements. There is a provision that the Council can do away with the contract zone if there is a problem.

Aaron Stupakewicz explained that his business has increased by 2% over the last two years. 6 p.m. is his busiest time with approximately 10 orders.

Jeremy Chubbuck asked if new lighting is proposed and Aaron replied there is wiring on both sides of the door for sconces that he could install.

Evan Richert asked the percentage of traffic for deliveries and pickup and Aaron replied 58% for deliveries and 41% for pickups.

Evan Richert explained contract zoning for those present. Contract zoning allows a property owner to request a higher zoning district but then restraints are placed on them for the more intense zone. The contract limits the uses allowed.

It was explained that the property line will be moved when the accessory structure is expanded. They are also only reconfiguring the parking lot not adding spaces. There will be 9 spaces available.

Evan Richert read the restrictions that are outlined in the contract zone agreement. Signage will need to comply with the residential district standards and not the C-2 standards. If they have to reconfigure because they trip the 40 trip ends number they would have to widen the entrance to 24 ft. and that would require some re-working of sidewalks at their expense and under the supervision of the Public Works Director. If there are any safety issues at that point the Town can require that mitigating measures be taken. No safety issues are anticipated but if there is, there is recourse. The contract zone runs with the property and this will freeze the size and the use. The board will need to make a recommendation to the Town Council.

The public hearing was opened.

Carol Epstein, Dryden Terrace, is concerned about the long-term impacts to the neighborhood and how this fits in with the Comp Plan. This could become a high volume business in the future and the lot is too small. She feels there are 4 spaces that do not meet the current ordinance standards. Phase 2 takes it to 10 spaces. There is no loading zone shown on the plans. A take-out restaurant has high volume and the lot is undersized. Ms. Epstein also felt the sign is in the right-of-way. She feels the Phase 2 improvements should be done immediately.

The rest of Ms. Epstein's comments were not audible on the tape due to not speaking into the microphone.

Town Manager Sophie Wilson spoke on behalf of Dave Milan, Orono's Economic Development Director. Dave prepared a statement that Sophie read into the record pertaining to economic development and the Park Street corridor. The use is within walking distance of the University and downtown.

Phil Ruck asked the board for further recommendations to the contract zone as expressed by Ms. Epstein.

Evan Richert felt the board could limit this small family owned business so that it could not be sold to a larger type use and no franchise type development could be located here. The board could require the reconfiguration of the parking lot right off. A C-2 district is for small scale commercial uses along with residential uses.

Jeremy Chubbuck asked what the driving factor for not doing Phase 2 was. Aaron Stupakewicz replied the business grew rapidly in the first couple of years. Over this last year they have experienced a 2% growth. Over the last few years they have done 10,000 deliveries each year with no accidents. The way the driveway is now, it is working and if they move to Phase 2 there are unintended consequences and he likes the idea of keeping what he has and if it triggers the trip level he could do Phase 2. He is okay with no franchise located here.

Steve Ribble explained the other reason they don't want to go to Phase 2 now is the context of the neighborhood and it will require more pavement. They need 17 spaces per the ordinance and they are providing for 11 spaces. There will be no seating and any improvements would be done by the applicant and paid for by the applicant.

Evan Richert explained that the traffic trigger is intentional by the Town and the Town wants to be in control of the traffic should the need arise. The board may want to include “at the applicant’s cost” in the contract.

Evan Richert explained that the board has three options:

1. Not recommend
2. This is reasonable and okay to do
3. Recommend changes
 - Limit to no franchises
 - Lower trigger number to 30 trips
 - Evidence of routine parking on Park Street in the bike lane. The Town could direct the applicant submit a site plan on the parking scheme.

Lisa Buck asked if this property is sold is there a way to limit the number of spaces the tenants can use. Evan Richert wasn’t sure how you would do that.

Phil Ruck felt it was a bad precedence to set.

Christa Schwintzer asked if the parking has to be paved or could it be gravel. Evan felt it could be specified.

The consensus of the board members was that they felt what was presented is workable, it fits with the Comp Plan and the franchise language should be added.

Michael Costello asked what would prevent someone from coming in and placing an order, which could take approximately 15 minutes to fill, either sitting in the parking lot or leaving a coming back and how will this affect the traffic counts. Aaron Stupakewicz felt there isn’t much there to do and someone would try it once and in the future would end up calling the order in and then picking it up.

Carol Epstein felt handicap parking was not addressed. Ms. Epstein’s comments were not audible on the tape. She felt the rooming house should have the number of rooms rented out reduced down to 2.

Evan Richert asked Aaron Stupakewicz the number of units rented out and was told that when Aaron purchased the property the previous owner had rented out to 6 international students and he has continued this use.

Steve Ribble felt they could put in the 17 spaces on the two lots per the code but it would remove the green space. The handicap space will be done at site plan stage.

The public hearing was closed.

Evan Richert went through the recommendations to move forward:

1. Limit the type of restaurant by limiting it to no franchises. All board members were in agreement.
2. Require Phase 2 for the reconfiguration of the parking now or does the board prefer to have a trigger that would cause this to happen and the trip ends could be reduced down to 30. The consensus of the board members was to reduce the trigger down to 30 and if it exceeded that Phase 2 would be required with a handicap van assessable space.

3. If there was evidence of parking on Park Street the Town could require site plan review with parking to mitigate the situation.
4. The sign be removed from the public right-of-way.

LISA BUCK MOVED TO RECOMMEND TO THE TOWN COUNCIL THE CONTRACT C-2 ZONE FOR 12 AND 14 PARK STREET WITH THE FOLLOWING CHANGES:

1. LIMIT THE TYPES OF RESTAURANTS WITH NO FRANCHISES OR MULTIPLE LOCATION RESTAURANT CHAINS.
2. THE TRIGGER FOR THE TRIP ENDS BE REDUCED FROM 40 TO 30 AND THAT PHASE 2 PARKING WOULD BE REQUIRED WITH VAN ACCESSIBLE PARKING.
3. EVIDENCE OF PARKING ON PARK STREET WOULD REQUIRE THE APPLICANT TO COME BEFORE THE PLANNING BOARD FOR SITE PLAN REVIEW WITH PARKING THAT WOULD MITIGATE THAT SITUATION.
4. THE SIGN ADVERTISING THE RESTAURANT MUST BE MOVED OUT OF THE RIGHT-OF-WAY.

JOHN BECKETT SECONDED THE MOTION. MOTION UNANIMOUSLY APPROVED.

Phil Ruck explained this now goes on to the Town Council who will hold their own public hearing in June. They would then act on it at their next business meeting.

Old Business.

- a. Continuation of an ordinance amendment to the Land Use Ordinance Section 18-31 Definitions to define "house guests" and add a reference to this definition under the definition of "family".

Evan Richert explained that at the last meeting the board had concerns about Section 18-81, Violations. Since the last meeting he has rewritten the amendment to include the following:

"Information that might be requested could be copies of signed leases, names of known tenants (including those not signatories to the leases) and an affidavit that to the property owner's knowledge no other persons are residing in the dwelling unit."

Evan also gave an update on those amendments the board had made recommendations on at their previous meeting.

JOHN BECKETT MOVED TO RECOMMEND THE ADOPTION OF THE PROPOSED AMENDMENT TO THE LAND USE ORDINANCE TO DEFINE "HOUSE GUEST" AND ADD A REFERENCE TO THE DEFINITION UNDER THE DEFINITION OF "FAMILY". LISA BUCK SECONDED THE MOTION. MOTION UNANIMOUSLY APPROVED.

New Business.

- a. Election of a chairman for the coming year.

CHRISTA SCHWINTZER NOMINATED PHIL RUCK. MICHAEL CONSTELLO SECONDED THE MOTION. MOTION UNANIMOUSLY APPROVED.

- b. Election of a vice chairman for the coming year.

JOHN BECKETT NOMINATED JUDD MCINTOSH. DAVID THOMPSON SECONDED THE MOTION. MOTION UNANIMOUSLY APPROVED.

Phil Ruck acknowledged former board member Mark Kittridge and thanked him for his years of service to the board and to the Town. Evan Richert will write a letter thanking him for his service.

MOTION BY CHRISTA SCHWINTZER TO ADJOURN. LISA BUCK SECONDED THE MOTION. MOTION UNANIMOUSLY APPROVED.

The meeting adjourned at 9:15 p.m.

Respectfully submitted,

Ruth Vaughan