

SANFORD PLANNING BOARD MINUTES
MEETING January 20, 2010 – 7:30 P.M.
Town Hall Annex Third Floor Chambers

MEMBERS PRESENT: Kelly Tarbox, Chair
Robert Hardison, Vice Chair
Joseph Herlihy
John McAdam
Gary Morse, Secretary

MEMBERS ABSENT: David Mongeau (w/notice)
Gregory Vermette (w/notice)

STAFF PRESENT: James Q. Gulnac, AICP, Planning & Development Director
Charles Andreson, P.E., AICP, Town Engineer
Michael Casserly, P.E., Assistant Engineer

STAFF ABSENT: Barbara Bucklin, Administrative Assistant (w/notice)

I. CALL TO ORDER

Chair Tarbox called the meeting to order at 7:30 P.M.

II. PUBLIC HEARINGS

There were no public hearing items.

III. NEW BUSINESS

1. **File #10-09-R: YMCA Sanford-Springvale YMCA, c/o Ken Lamoreaux, The Sheridan Corporation, PO Box 359, Fairfield, Maine.**

Chair Tarbox called for a representative to present the project.

Staff member Gulnac asked to speak about the project. Mr. Gulnac explained that the Board has two actions for this application – a minor subdivision that incorporates all the easements and land changes over the years; and a site plan that has some changes that still need to be added but, due to personal reasons, the agent was not able to have them ready for tonight's meeting. Mr. Gulnac, at the request of the applicant, asked the Planning Board if they would agree to vote on the subdivision portion of the application and to vote on the site plan portion at the next available meeting once the engineer makes the changes and the revised plan has been reviewed and approved by staff member Casserly.

Chair Tarbox asked Board members if they had any objections to Mr. Gulnac's request; they did not.

Chair Tarbox then wanted to make sure all the conditional use issues were satisfied, specifically potential sidewalks and pedestrian access. Mr. Gulnac pointed out to the Board that a conditional use has a specific section in the ordinance containing a list of general terms that need to be looked at, and one of them makes reference to pedestrian safety. Discussion took place on sidewalks and pedestrian traffic.

It was decided that a stormwater basin would be redesigned now, and changed on the plan, to allow for sidewalk placement at a later date if determined one is needed.

Chair Tarbox called for a motion.

Board member Morse made a motion that the Planning Board accept the finding of facts (see attached) and find that the minor subdivision plan contained in File #10-09-R has been prepared in compliance with Section 275-19 of the Town of Sanford municipal code and Title 30-A M.R.S.A. Section 4404 and subject to the conditions listed below grant approval:

- a) The applicant will pay all outstanding application review fees. There is no filing fee.
- b) The applicant has 90 days from the date of this approval to file the signed mylar with the York County Registry of Deeds.
- c) The applicant will provide the Planning Department with a copy of the signed mylar with proof of filing at the registry of deeds and six (6) paper copies of the same.
- d) The applicant will provide verification [and copies] of filing of any and all revised or new easements indicated on the plan.

Vice Chair Hardison seconded the motion.

A vote was taken, and the motion passed 5-0.

2. **File #12-09-R: Robert Curry, d/b/a Northern Building Systems, Inc., c/o William R. Davidson, PE, Hoyle, Tanner & Associates, Inc., 100 International Drive, Suite 360, Portsmouth, New Hampshire.**

Chair Tarbox called for a representative to present the project.

Bill Davidson, representing the applicant, updated the Board on the changes made as a result of the work session meeting.

Staff member Gulnac wanted to make sure the applicant understood that the owner's narrative would be treated as an operations manual for the project, and that is how the activities on site will be enforced by the Codes Enforcement Office.

Chair Tarbox reminded Mr. Gulnac of the request that the narrative be signed and dated as a reference. Mr. Davidson replied that would not be a problem.

Staff member Casserly pointed out some items from his report:

- the applicant is asking for two waivers
- that this is a revised narrative received 1/13/10 and allows for more inside storage
- construction equipment proposed to be stored on site; AD zone does not allow a construction company except as an accessory to some other firm, believes this will be ok as an accessory to the applicant's proposed business
- there is a stockpile of topsoil next to the detention pond that apparently is going to be permanently stored onsite to keep as extra and used

Mr. Davidson said that the topsoil is a DEP requirement for the construction of the detention basin and erosion control measures. Mr. Davidson gave further explanation. Discussion took place.

Vice Chair Hardison asked Mr. Casserly about his memo, specifically what Mr. Casserly intended the Board to do with his information. Mr. Casserly said the memo was intended to answer the Board's questions or concerns from the previous meeting; discussion took place.

It was determined that the narrative contained adequate guidelines and/or agreements that would allow proper enforcement by the code officer if the activities on the site are noncompliant.

Mr. Davidson asked if Mr. Curry did something different than what is stated and is an allowed/permitted use in the zone, would Mr. Curry be required to come back in for amended site plan approval. The Board didn't feel that was the intent; however, if Mr. Curry chose to migrate from the approved narrative, and he has an agreement of understanding in place that if he does this he will have to come back for an amended site plan approval, the issue is settled.

Board member Morse asked if there should be a limit set for the number of unused vehicles allowed on the lot. Discussion took place. It was decided that the applicant had sufficiently outlined the storage areas on the site plan, and if the applicant doesn't follow the plan enforcement would take place.

Staff member Casserly pointed out that the applicant is intending to use a dug well rather than connecting to the water district and explained why. Discussion took place.

Board member Morse was still concerned about not regulating the number of unused vehicles allowed onsite. He feels that it would be better to limit it now rather than leave it open-ended. Mr. Casserly stated it would be helpful to know what the applicant is proposing, but that is unknown at this time. Discussion took place.

Chair Tarbox asked Shirley Sheesley, CEO, to join in this discussion, since it will be up to her to enforce. Ms. Sheesley gave basic information about the junkyard law. There was discussion on this issue, and how to word an approval to make sure there is no confusion in the wording that would conflict with state law.

Chair Tarbox asked staff member Casserly if item #6 in his memo needed to be expanded on in the finding of facts. Staff member Gulnac said he was going to suggest adding to the finding of facts: 'compliance with the January 13, 2010 memo from assistant town engineer.' The applicant's agent accepted the change.

Chair Tarbox called for a motion.

Board member Morse made a motion that the Planning Board add "compliance with Mike Casserly's, Assistant Town Engineer, January 13, 2010 memo" to the finding of facts and that the Planning Board accept the finding of facts (see attached) and find that the major site plan contained in File #12-09-R, Northern Building Systems, Inc. has been prepared in compliance with Article XVII Site Plan of the Town of Sanford municipal code and Title 30-A M.R.S.A. Section 4404 and subject to the conditions listed below grant approval:

- a) Construction must commence within one (1) year of the approval of the site plan and a certificate of occupancy issued within three (3) years. Failure to comply will result in the approval being declared null and void.
- b) The applicant will pay all outstanding review fees.
- c) The traffic impact fee shall be paid at the time of the issuing of the construction permit.
- d) The applicant agrees that he has described his activities completely.
- e) The applicant will schedule a pre-construction meeting with the Town Engineer at which time the applicant will comply with the requirement for a performance guarantee (if needed) and the establishment of an inspection escrow.
- f) Operation of this business will be in compliance with all state laws, including the state junkyard law.

Vice Chair Hardison seconded the motion.

A vote was taken, and the motion passed 5-0.

3. **File #15-09-W: DMK Development, d/b/a Tractor Supply Co., c/o Stephen Bradstreet, PE, Oak Engineers, 400 Commercial Street, Suite 400, Portland, Maine.**

Staff member Gulnac explained that the Board would be voting on recommending the contract zone to the town council, and also voting on preliminary major site plan approval. He also said that a preliminary approval could happen with outstanding issues, and went on to describe the process.

Vice Chair Hardison asked if accepting the finding of facts was enough to establish the criteria that need to be completed before final approval. Staff member Casserly stated it was. Vice Chair Hardison then asked if the Board had reviewed the contract zone at the workshop and found no issues; Mr. Gulnac stated they have. Discussion took place.

Chair Tarbox called for a motion.

Vice Chair Hardison made a motion that the Planning Board accept the finding of facts (see attached) and find that the preliminary major site plan contained in File #15-09-W, DMK Enterprises, d/b/a Tractor Supply Co. has been prepared in compliance with Article XVII Site Plan of the Town of Sanford municipal code, Section 280-38, Contract Zone and Title 30-A M.R.S.A. Section 4404 and subject to the conditions listed below grants preliminary approval:

- a) The Town Council will approve the contract and the zone change;
- b) The applicant will submit the application for final Planning Board approval;
- c) The applicant will obtain any and all required State and Federal permits prior to submitting for final approval.

Board member Morse seconded the motion.

A vote was taken, and the motion passed 5-0.

4. **File #15-09-W:** The Planning Director is requesting that the Planning Board review a zone change under the provisions of Section 280-38, Contract Zoning to permit a retail business d/b/a Tractor Supply Co., located on tax map R18, lot 24-1.

Chair Tarbox asked if any further discussion needed to take place on this item; there was not.

Chair Tarbox called for a motion.

Board member Morse made a motion that the Planning Board has reviewed the information included in the contract zone application, File #15-09-W, DMK Development and recommend to the Council of the Town of Sanford the change in zone to permit retail and the other minor changes outlined in the proposed contract zone application.

Vice Chair Hardison seconded the motion.

A vote was taken, and the motion passed 5-0.

IV. OLD BUSINESS

There were no old business items.

V. APPROVAL OF MINUTES – July 1, 2009

Chair Tarbox called for approval of the minutes.

Board member Morse made a motion to accept the minutes as written.

Board member Herlihy seconded the motion.

A vote was taken, and the motion passed 4-0 (Board member McAdam was not on the Board in July).

VI. PLANNING DIRECTOR'S REPORT

Planning Director Gulnac introduced Forrest Mansur, owner of Heritage Memorials located on Main Street. Mr. Gulnac then explained why Mr. Mansur was here: he submitted a building permit to the Codes Enforcement Office requesting expansion. But, since the building is an existing non-conforming building, a building permit can not be issued unless the application has Planning Board approval. Mr. Gulnac described the situation to the Board, and discussion took place.

Consensus of the Board was that in this section of Main Street (from Main Street Car Wash and south), all buildings are nonconforming and they felt that there was a mistake made for this section regarding setback allowances when the ordinance was drawn up, and the Board could allow the request.

Board member Herlihy made a motion that the Planning Board would allow Mr. Mansur to reconstruct at a front setback distance anywhere between 91 feet – 103 feet, as long as the structure conforms to the side and rear setbacks.

Vice Chair Hardison seconded the motion.

A vote was taken, and the motion passed 5-0.

VII. ADJOURN

The meeting adjourned at 8:40 PM.

Attachment to January 20, 2010 Minutes

Finding of Facts for New Business Item #1 File #10-09-R: YMCA Expansion

- The applicant has provided proof of ownership of the property in question and has standing to make the application.
- An agreement between the YMCA and the Town of Sanford concerning the lease of the 2.4 acre additional land has been supplied and any approval granted by the Planning Board will be subject to the conditions in the agreement.
- The application was reviewed by the Site Plan Review Committee and the plans submitted to the Planning Board reflect comments made by staff in that review.
- The application requires review and a permit from Maine DEP.
- The project is proposed to be constructed in phases. All stormwater requirements will be constructed in Phase I.
- A traffic study was provided. Based upon that study it was determined by the DOT that no off-site traffic improvements would be required. The proposed number of new trips was accepted by the Town Engineer. At the time of the application for a building permit, the applicant will be required to pay the traffic impact fee based upon the number of new trips.
- The application contains two (2) separate plans: a minor subdivision plan and a major development site plan. Separate motions will be required for each plan. The applicant has updated all easements that exist on the site and has identified any new easements required.

- The subdivision plan will require Planning Board signatures and recording of the approved plan at the York County Registry of Deeds. The applicant has updated all easements that exist on the site and has identified any new easements required.
- The current site is considered pre-existing non-conforming as to parking requirements. The approval of Phase I will include a waiver to permit a reduction of 30% in the parking requirements. Parking requirements for the subsequent phases are conforming.
- The Board has reviewed the location of the YMCA sign at the entrance and has determined that no sight obstruction exists and therefore no waiver is required.
- Any additional findings as determined by the Board.

*Finding of Facts for New Business Item #2
File #12-09-R: Northern Building Systems*

- The applicant/owner has provided proof of ownership and therefore has standing to submit the application.
- The property is located in the Airport Development Zone where the use is listed based upon the North American Industry Classification System. Warehousing is under 48-49 and manufacturing is 31-33. The applicant indicates that the proposed activity is sub sectors 332 and 333 which are permitted uses.
- New construction in the AD zone requires review and approval as a major site plan and approval authority is with the Planning Board.
- Chapter 280-53-G.(2) (a) has additional requirements that need to be included in the site plan packet that the Planning Board will review.
- The applicant did attend a Site Plan Review Committee meeting and the revised plans reflect the requests made at that meeting.
- When submitting the revised packet for the Planning Board, the complete packet needs to be included on the digital submission in addition to three (3) paper copies.
- The applicant has specifically requested two (2) waivers:
 - a. Section 191.C.1.f Bearing and distance for complete property: The size of the entire parcel is +/- 133 acres with only a small portion being used for the project. A copy of the deed for the complete parcel has been provided.
 - b. Section 280-101.C.3.j Building Plans: The applicant has not decided on specific plans for the building at this time but indicates that it would conform to any required building codes.
- The application will require two outside agency permits:
 - a. Maine DEP Stormwater Permit #L-24717-NJ-A-N, pending
 - b. FAA Form 7460-2, Permit #2009-ANE-949-OE
- Prior to any final approval, copies of the approved permits must be provided.
- Note 19 on sheet C4 contains the information required by the ordinance for an emergency evacuation plan, public safety plan and traffic control plan.
- The Airport Manager has reviewed the application and has no objections to the construction plans.
- The final decision concerning the aviation easement is still under review by the applicant and the Airport Manager.
- The applicant agreed to work with the town engineer on the stormwater management plans for the area along Airport Road impacted by the flow from the project.
- The Chair opened the meeting to the public and no one rose to comment.
- The application was scheduled for a vote on Wednesday January 20, 2010, subject to the satisfaction of staff review of the revised information.
- The applicant provided a narrative description of the proposed activities that would take place on site. The Board discussed the description and reminded the applicant that only those activities described in the narrative would be considered as permitted.

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Memo To: James Q. Gulnac, Planning

From: Michael J. Casserly, P.E.
Assistant Town Engineer



Date: January 13, 2010

RE: **Northern Building Systems (Bob Curry)** File 12-09-R AD Zone
Major Site Plan for Planning Board Voting Meeting of 1/16/10

The DEP Stormwater Permit has been approved and submitted. Submitted plans appear to be in order for Final Approval, unless the Board requires more information as discussed below. We would add a caveat that off site work on Airport Road should be coordinated with Engineering Staff in the pre-construction meeting.

Waivers: The Applicants are asking two Waivers, to which staff has expressed no objection:
§ 280-101.C. (1) (f) for bearings and distances to be shown on the entire parcel, and
§ 280-101.C. (3) (j) for submission of building plans.

Revised Narrative: A revision to the descriptive narrative that is in the Board's packet concerning proposed site land use was date stamped by the Planning Department on January 13, 2010, after staff requests for clarification on the original. If Approval is granted, the contents of this revised January 13 narrative should be considered to be part of the Approval.

1. From the narrative, larger steel inventory such as I-beams, trusses, and framework of machinery to be built would be stored outside in the storage area shown on the plan. Large rigging and metal pieces would be manipulated by forklifts, etc. and it is stated that "all other metal storage (other than the large aforementioned large items) will be inside the completed building. Also, a (new) 40-foot long steel container is proposed. This portion of the revised narrative has been written in an attempt to address possible concerns related to State Junkyard Definitions for scrap metal, and it appears to me that it does so satisfactorily since the metals are for the most part no longer to be left outside. However, that is a subjective judgment for the Planning Board.
2. It is stated that at times some unused vehicles (e.g. forklifts? excavators?) are proposed to be stored on site for parts for the business's vehicles. Removed parts are to be stored inside the building. That and the discussion of the steel container for other storage seems to address the junkyard aspect. The Board should understand and be in agreement with this.
3. At the Workshop, the Board asked the Applicant for information on whether the use of oils on the site was in accordance with Maine DEP regulations. A general response in the narrative was that the Applicant would be "in compliance with state and federal guidelines for the use and storage [of] products we use in process manufacturing." This and other statements seem to indicate that oils are to play a minor role in outside site activity (only typical spray-can lubricants, etc.). I did ask the question to the Applicant's consultant as to whether oils and solvents typically used or stored by machine shops and metal working facilities would be used outside the building, and what restrictions would there be, and I received no additional specific response.
4. Also, the Board asked for specific locations of some items on the plan, and discussed whether there was a need to put up a fence. The new plan shows an unfenced 40-foot by 80-foot storage area, with no

indication of where specific items would be stored or used. I am guessing that storage area is where the 40-foot steel container would be located. Will the low-beds, trucks, loaders, bulldozers, excavators, crane, and forklifts be stored in this designated storage area with the trusses and I-beams? The Applicant should be prepared to answer any questions the Board may have on specific locations of items discussed above within the storage area.

5. For the Board's clarification, the uses that I see proposed in this application under the umbrella of the Applicant's various companies are (from Note 4 on Sheet C4):
 - (a) Metal product manufacturing per NAICS 332
 - (b) Machine Manufacturing per NAICS 333
 - (c) Buying, selling, maintenance, repair and storage of machinery;
 - (d) Buying, selling, maintenance, repair and storage of construction support equipment (see Item 6 below);
 - (e) Construction of or alterations to buildings for customers on their sites;
 - (f) The manufacture, re-manufacture and development of machinery;
 - (g) Fabrication of specialized cutting machines and other machinery (& related machine shop uses), including research and development.
6. The use and storage of earthwork / construction equipment used to construct buildings for customers is proposed as part of the land use to be approved. It appears that the AD Zone Ordinance allows construction activities (headquartered on this site for work on another site) as an *accessory use* to the building construction use. It should be understood that operation of a construction company for construction *that is not accessory to construction of a building* is not permitted in the AD Zone and should not be included in this approval.
7. A proposed topsoil stockpile is shown on the plans, with no purpose stated for it.
8. A 4-inch fire flow line is proposed to be extended into the building, while a dug well has been added for domestic water. The Water District does not object to this, but for the record it should be understood that *the Water District's standards will need to be adhered to for any connection to their system as part of this approval.*
9. **Performance Guarantee:** Staff recommends that a performance guarantee be provided for site amenities, such as landscaping, and for the off-site work on Airport Road. The Applicant should provide a cost estimate to us for this work at the Pre Construction Meeting. The Planning Board should indicate their approval of this arrangement.
10. For the record, we have accepted the Applicant's traffic information which states that there would be 4 peak hour trips. This will mean 4 times \$708, or \$2,832 due at issuance of the building permit. This amount is to be distributed equally to all the Impact Fee reserve accounts.
11. As a reminder, after approval and payment of review fees and prior to the issuance of a building permit, the Applicant should arrange a pre-construction meeting with us a Public Works. An inspection fee account and any performance guarantee funds will need to be provided at that time. We also have an agreement that HTA will provide inspection reports to us for the DEP-mandated wet pond inspections. Thirdly, upon approval an Autocad .dwg file should be provided to us on datum, including all property line information along with features such as grading, labels, drainage structures and associated text (inverts, etc.).

*Finding of Facts for New Business Item #3
File #15-09-W: Tractor Supply Co.*

- The applicant has provided proof of right, title, and/or interest and has standing to make the application.

- The Planning Board has reviewed the contract zone application and found that it was consistent with the comprehensive plan and the growth plan for the Town of Sanford. A public hearing for the consideration of the zone change for the contract zone has been scheduled for January 13, 2010. The request for the zone change will be forwarded to the Town Council for their consideration.
- The major development has been reviewed by the Site Plan Review Committee and was forwarded to the Planning Board for their consideration.
- The Planning Board agreed to a schedule a special meeting to hold a public hearing and a work session on January 13, 2010 and, pending the review of the materials submitted, schedule the application for a vote on January 20, 2010.
- No one from the public spoke at the public hearing.
- The applicant has applied for a Site Law of Development amendment to the existing DEP permit. Verification of this approval will be required for final Planning Board approval; it is not required for preliminary approval.
- The applicant has applied to the FAA for a permit to development within the Sanford Regional Airport's glide/approach lanes. Verification of this approval will be required for final Planning Board approval; it is not required for preliminary approval.
- The proposed project is the construction of a 19,097 SF building and a 15,400 fenced outside storage area from which the Tractor Supply Company will operate their retail business.
- Access to the site will be from Cyro Road directly and from Route 109 (Main Street) via an easement from the adjacent parcel (Lot 24).
- The review of this application has required consideration of a number of issues which, while they impact the application, are not directly part of the preliminary major site plan review.
- The preliminary review can be conditioned upon the final approvals from both the DEP and FAA and while some of the conditions of these approvals may impact the design and construction on the site, those details may not yet be available.
- The review of a contract zone application by the Planning Board is made with the assumption that the differences between the requirements of the existing zone and the proposed project will become considered in the contract. Both the CEO and the town engineer will detail these items in their reports and confirmed as included in the proposed contract with the Town of Sanford.
- Any approval of the preliminary site plan by the Planning Board will include, as a condition, the approval of the zone change and the contract by the Town Council.
- Any approval should also include a condition that any and all review escrow costs have been paid.

*Finding of Facts for New Business Item #4
File #15-09-W: Tractor Supply Co.*

- The Planning Board found that the request for a contract zone to permit retail on tax map R18, lot 24-1 was consistent with the goals and objectives of the Comprehensive Plan and the growth plan of the Town of Sanford.
- The proposed construction of a facility (19,097 SF with a fenced area of 15,975 for outdoor display) to house a Tractor Supply Store which is classified as a retail establishment has been presented to the Planning Board as a preliminary major site plan.
- The Planning Board has held the required public hearing at which no one from the public spoke either in favor of or opposition to the application.