

SANFORD PLANNING BOARD MINUTES
MEETING November 17, 2010 – 7:30 P.M.
AMENDED
Town Hall Annex Third Floor Chambers

MEMBERS PRESENT: Kelly Tarbox, Chair
Robert Hardison, Vice Chair
Gary Morse, Secretary
Joseph Herlihy
David Mongeau
Gregory Vermette

MEMBERS ABSENT: John McAdam

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

1. File #11-10-T: Mark & Megan Lucier, 955 Main Street, Sanford, Maine.

Chair Tarbox asked for a representative to present the project.

Staff member Gulnac said Dr. Mark Lucier needs to expand his current business, Children's Dentistry, due to demand. After looking at different locations throughout town, the building behind Dr. Lucier became available for purchase. This property, located on West Elm Street, is in the Single Family Residential zone and Dr. Lucier would not be able to use the building as part of his dental practice. Dr. Lucier is asking to amend the zone boundary line between his current business on Main Street and the West Elm Street property so both properties would lie within the Office Residential zone.

Chair Tarbox asked if anyone present would like to speak in favor of the application; there was no one.

Chair Tarbox asked if anyone present would like to speak against the application.

Roland Normand, who owns property diagonally across from Dr. Lucier, said he was concerned with parking. He said on weekdays there could be 10-15 cars parked on the side of the road and it makes it very hard to pass through the street. He also said that Caring Unlimited, across the street from Dr. Lucier's brings in a lot of traffic, and he finds the on-street parking hazardous.

Chair Tarbox asked if he was able to determine which business was generating a lot of the parking issue.

Mr. Normand said the issue wasn't all related to the dentist office, some of the cars belonged to workers & clients of the attorney's office located on Main Street.

Joan Bourlessas, 31 West Elm Street, wanted to commend Dr. Lucier for purchasing the house on West Elm Street because it was in disrepair and she was all for the proposal except for the parking. She agreed with the comment made by Mr. Normand referring to the number of cars parked on the side of the road, and acknowledged that the cars were not all from the dentist office as well. She felt that by expanding the dentist office, parked cars would be increased by approximately ten (10), and the cars would extend the entire length of West Elm Street. She feels the parking is a safety hazard in the neighborhood.

Sara Jane Normand, 20 West Elm Street, feels that any expansion would cause an exacerbation of an existing issue. She is also concerned about property values and diminished property values as a result of additional commercial zoning for the gain of an individual when a particular parcel is not already zoned for commercial use. She feels that the Luciers could move the entire dental office to the front building (955 Main Street) that is already zoned commercial and he could live in the back building located on West Elm Street. Ms. Normand was also concerned that Dr. Lucier would continue to expand his business down West Elm Street.

Chair Tarbox asked if anyone else wanted to speak during the public hearing; no one did.

Chair Tarbox asked Dr. Lucier if he wanted to address the concerns that were discussed tonight.

Dr. Mark Lucier said he was sensitive to the issues his neighbors spoke of. He said that when he opened his business, he and his wife created a 10-year plan for the business and they had attained this goal in three years. Dr. Lucier knows that the number of patients has grown and his staff has increased. He has a parking arrangement for his staff on snow days. Dr. Lucier explained how he was proposing to accommodate the parking for the business expansion in his new site plan.

Dr. Lucier also responded to the suggestion made to move the entire dental practice into the 955 Main Street building, and to live in the house located at 15 West Elm Street. He also said that Maine is not attractive to dentists, especially pediatric dentists, so he is growing his own business so future expansion further down the street was not in the immediate future.

Chair Tarbox confirmed with Dr. Lucier that his plan was to provide off-street parking for all his staff and patients with the proposed site plan.

Chair Tarbox asked if any Board members had questions.

Board member Mongeau asked if the front door where people enter would be facing the parking area. Dr. Lucier described where the locations of the entrances in his proposed site plan were.

Board member Herlihy asked if the site plan was distributed to the Board. Staff member Gulnac explained that the meeting tonight was for the zone change request, and that the site plan drawing would be distributed through the application process if the zone change was approved. Both Board members Mongeau and Herlihy agreed that seeing the site plan would help in deciding whether or not the change was approved.

Chair Tarbox asked if there were any other questions; there were none.

Discussion took place on the property valuation concern and if the Town had any parking regulation in regarding to time limits allowed to park on the street, apart from the snow bans.

More discussion took place on whether or not to have the applicant submit a site plan for the Planning Board to review before making a recommendation to the Town Council for the zone change. The biggest concern on doing this was setting precedence for others.

After all the discussion, it was agreed by all to have the applicant submit a site plan with complete description of services to be done at both locations to the Planning department, and Mr. Gulnac, Planning Director and Ms. Sheesley, CEO would work together to compare Dr. Lucier's plan to the ordinance to see how to classify the project to determine the review process.

Chair Tarbox invited the audience members who were interested in/concerned about Dr. Lucier's proposal to the Planning Board meeting being held in two weeks (December 1) to aid the Board in the review of the proposal.

A motion to table the application to the December 1, 2010 meeting was made and seconded.

A vote was taken and the motion passed 7-0.

2. **File #18-10-W: Sanford Property Holdings, LLC, c/o Wes Thames, 2 Main Street, Border Trust Business Center, Topsham, Maine.**

Chair Tarbox called for a representative to present the project.

Staff member Gulnac, Planning Director, explained to the Board that this project is familiar to them. It was first presented a couple of years ago, with a different name. Staff member Gulnac then explained what happened during the first review and how the application proceeded. Previously, the applicant went for a complete zone change instead of going through contract zoning. Mr. Gulnac then went on to explain the differences between the first proposal and the one that is being presented tonight.

Board member Mongeau asked if the hotel was still going to have a conference center in it.

Wes Thames, representing the applicant, said they were asking the Board and the town to permit future hotel use on one of the sites, and explained that Priority Group tried negotiating a purchase with an abutting property owner which would allow Priority Group to construct a conference center. Mr. Thames went on to explain that the purchase did not happen, but the current design in front of the Board allows for future purchase of the abutting parcel if this should occur. The hotel would contain conference rooms, but a conference center is not in the proposal at this time.

Chair Tarbox asked if any other Board members had questions; they did not.

Chair Tarbox asked if anyone present would like to speak in favor of the application; there was no one.

Chair Tarbox asked if anyone present would like to speak against the application.

Brian McEwen, who owns an abutting property, asked if this was going to change the zone on all properties in the area, or just the properties outlined in the proposal. Mr. McEwen then asked if tonight's meeting was a review and discussion of the plan, or just a recommendation.

Chair Tarbox said it was a contract zone that would only change the parcels proposed in the application. She then informed Mr. McEwen that tonight's meeting was just a review to see if the application is consistent with the comprehensive plan, and if found to be consistent, there would be future meetings to discuss the site plan in depth.

Chuck Goss, representing the property across the street (Wilderness Motorsports), wanted to know how the sewer would be brought up and where it would be located.

Staff member Gulnac responded to Mr. Goss. Mr. Gulnac said that when Wilderness Motorsports went through the review process, the applicant put money aside to hook up to sewer if sewer was extended in the future. Mr. Thames, Priority Group, then explained how and where the sewer was being extended.

Chair Tarbox closed the public hearing and called for a motion.

Vice Chair Hardison made a motion that the Planning Board approves the request for a contract zone authorized as Sanford Property Holdings LLC to proceed with a contract zone application for the proposed mixed use complex as generally outlined in the sketch plat.

Board member Mongeau seconded the motion.

A vote was taken, and the motion passed 7-0.

III. NEW BUSINESS

There were no new business items.

IV. OLD BUSINESS

- 1. File #09-09-SZ: David Ouellet, Boston Mortgage Group, Inc, c/o Jim Fisher, Northeast Civil Solutions, 153 US Route 1, Scarborough, Maine.**

Chair Tarbox called for a representative to present the application.

Jim Fisher, Northeast Civil Solutions, told the Board what has taken place since the applicant's last meeting, and then briefly outlined the proposal.

Board member Joe Herlihy asked the applicant if they had worked all the engineering details out to the satisfaction of the town's engineering staff. If so, the Board didn't need to know what had been done, only what the applicant is asking for approval tonight.

The town engineers said they were satisfied with what the applicant was proposing for engineering details, so the applicant continued with the request being asked for review and approval tonight.

Mr. Fisher said the reason the applicant was before the Board tonight was because the frontage along Oak Street is allowed to be 65 feet with Planning Board approval, other than that, it was just a basic lot split.

Board member Herlihy and Chair Tarbox asked how short the frontage of the property was from being able to just split the lot. Mr. Fisher responded 15 feet total.

Board member Mongeau asked if the applicant would be exacerbating the flooding problem in the area or lessen the problem. Town engineer Andreson responded to the question and said he believed the design minimized the raising of storm water, and explained why.

Discussion took place on the stormwater analysis.

Chair Tarbox said she would like to briefly go over other items in the engineer's memo.

Mr. Andreson reviewed the items in his memo and addressed questions as they were asked. Discussion took place on when the performance guarantee needed to be in place.

David Ouellet, owner of the property, said he would like to either do the road or bond the road. Mr. Ouellet then described the loan process. Vice Chair Hardison explained to Mr. Ouellet that the Board and Mr. Ouellet were talking about the same thing – the Town of Sanford calls it a performance guarantee, while Mr. Ouellet called it a bond.

Discussion took place on when to require the applicant to either build the road, or provide the town with a performance guarantee. Staff member Gulnac suggested adding this to the conditions of approval, and referencing the town engineer's memo in the motion.

Chair Tarbox wanted to address the accuracy of the boundary survey.

Mr. Fisher said his firm, as professional surveyors, stands behind the survey provided to the town. Mr. Fisher said they do so both as an integrity issue as well as one of professional mathematics. He said as a result of the questions from both the Board and public at the last meeting, they went back to the area again and made some minor revisions to the external portions of the survey, and explained how they got the survey points.

Chair Tarbox opened the floor to the abutter

Richard Boisvert, 15 Howard Street, said he brought in a copy of his deed to the town and it matches the town's maps so he doesn't feel that the issue has been fully resolved. He also has concerns about the runoff of drainage from the applicant's proposal.

Chair Tarbox asked Mr. Boisvert if he had his property surveyed. Mr. Boisvert said he has not.

The Board felt that since they have a stamped, signed plan from a professional surveyor and that is what they need to go by.

Discussion took place, and it was decided that the property boundary dispute is a civil matter and the Planning Board was not the body that decides this issue.

Johann Buisman, a licensed land surveyor, stated his credentials and described the methodology used to create a survey. Mr. Buisman then addressed Mr. Boisvert's boundary specifically. Mr. Buisman restated that he stands behind the survey presented to the Board.

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 application File #09-09-SZ, David Ouellet, Boston Management Group as identified above has been prepared in compliance with Section Article V Minor Subdivision Title 30-A M.R.S.A. Section 4401 et seq. and subject to the conditions listed below approve the application:

- The applicant will pay any and all outstanding review fees.
- The applicant will comply with Section 275-19 of Article V.
- The applicant will provide two (2) mylars for signing by the Planning Board.
- The applicant, within 90 days of this approval, will provide the Planning Office with a mylar with verification the plan has been filed at the York County Registry of Deeds to include any and all access easements, and five (5) paper copies showing proof of filing at the Registry of Deeds.
- The applicant will make changes in Note 10 as noted in the engineer's memo (attached).

- The performance guarantee will be issued subject to the town engineer's satisfaction.

Board member Vermette seconded the motion.

A vote was taken, and the motion passed 7-0.

V. APPROVAL OF MINUTES – October 6, 2010 and October 20, 2010

There were no minutes ready for approval.

VI. PLANNING DIRECTOR'S REPORT

There was no report for tonight's meeting.

VII. ADJOURN

The meeting adjourned at 9:15 PM. A work session meeting immediately followed.

Attachment to November 17, 2010 Minutes

Finding of Facts for Old Business Item #1 File #09-09-SZ: Ouellet Subdivision

- This application has been the subject of previous reviews. This submittal differs from the previous submittals and has been prepared based upon many of the suggestions and comments from the previous actions. The application no longer includes a request for a private way and now proposes only two (2) parcels as opposed to three (3) in the past. Both lots would contain frontage of 72.5' on Oak Street; however, the minimum is 75'. Access to the proposed residential units would be via a single driveway entrance off Oak Street.
- In order for the applicant to divide the parcel into two lots without the necessity of constructing a private way, developmental review by the Planning Board must take place. The Planning Board requires that the review be prepared using the guidelines of a minor subdivision.
- I have scheduled both the SPRC meeting and the public hearing/work session at the Planning Board for May 5, 2010. Staff will prepare a single review for both meetings.
- The applicant is listed as the owner of the property on the Town of Sanford tax records and has standing to make the application.
- The application has been prepared as a minor subdivision.
- The applicant has requested that the Planning Board, under the authority of Section 280-42 H.(1)(b), grant approval for a minimum frontage requirement of 72.5' when 75' is the normal requirement. This section reads "*In addition, the minimum lot size may be reduced to the average of abutting residential lots but not less than 6500 square feet, and the minimum street frontage may be reduced to not less than 65 feet.*"
- The only abutting residential lot (M16, lot1) has 165' of frontage on Oak Street.
- The other two review guidelines are [1] The size of the proposed building is comparable to the size of the residential structures on abutting lots; and [2] the building's placement on the lot with respect to front and side lot lines is similar to the pattern of existing developed lots.
- Based upon the proposed shape of the lots and the proposed building envelopes it would appear that the proposed lot shapes and house locations would not be in compliance with the specific guidelines listed. The Planning Board could consider the unique environmental conditions existing on the parcel and determine that the proposed lot division and proposed house location is the best use of the parcel and permits the greatest use with the least impact. Furthermore, the construction of a private way to create the minimum lot frontage has been found in previous reviews to disturb a considerable wetlands area and is therefore not preferred.

- In order to provide access to the proposed building sites, a single shared driveway has been proposed. While this is the simplest and disturbs the wetland the least it does create the need for some form of access agreement between the two proposed lots. The subdivision plans have identified two easements labeled A & B. They are not further identified on the plan. Not only are these proposed as access easements they contain the water and sewer services for the two proposed building lots. To protect future property owners the easement date needs to be included on the filed subdivision plan.
- I am also concerned about the site work included in the proposal: the construction of the driveway with the culverts and the sewer and water service as well as stormwater management. It is important that, should the Planning Board ultimately approve the subdivision, the approval contain some insurances that the improvements will be made as approved.
- Both the Site Plan Review Committee and the Planning Board will need to establish a finding of facts that will be used to confirm any recommendations or decisions made.
- The application was considered at both a public hearing and work session.
- An issue concerning the survey was raised. The applicant has presented a signed and sealed survey which is the base document for the proposed subdivision. It is the planner's position that any errors are the responsibility of the surveyor and not the Planning Board.
- The applicant will provide the Town of Sanford any and all accesses easements required to maintain the stormwater management system.
- The applicant's professional surveyor, M. Johann Buisman has confirmed that he is confident that the metes and bounds shown on the survey plan dated March 29, 2010 are accurate.
- Should an abutter feel that the survey is not accurate they have recourse through the courts; however, the Planning Board is satisfied with the information presented by the professional surveyor.
- The Town Engineer's report received by the Planning Department on November 16, 2010 was reviewed and the conditions are to be reflected in the final plan.
- The applicant and the Planning Board agreed that that no occupancy permit (or certificate of occupancy) is to be issued for either dwelling until all work identified on the plan is completed per design. Furthermore this would become a condition of the final approval.

**Town of Sanford, Maine
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RE: File No. 09-09-SZ
Ouellet Subdivision

Dear Jim:

I have reviewed the October 29, 2010 submittal from Jim Fisher of Northeast Civil Solutions, Inc. and the plan set, entitled "Ouellet Minor Subdivision, Oak Street, Springvale, ME", consisting of 9 sheets with dates of March 29, 2010 or April 1, 2010. Several of the sheets contain a "most recent revision" date of 11/1/10.

Based upon my review of the plans, documents, file, meeting records, discussion with Jim Fisher, and site visit, I offer the following comments:

- a. There is a question that has been raised concerning the accuracy of the property boundary survey as it pertains to the northerly corner of the parcel on Oak Street (opposite Whipple Street), and of the northwesterly corner at parcels now or formerly of Murphy and Boisvert. These questions were raised at a prior board meeting by abutters and staff. Mr. Fisher and I have discussed these alleged discrepancies and he has agreed to have his Chief Surveyor attend the meeting to address them. Mr. Fisher is confident in the boundaries as they are depicted on the plan, and advises that no one has provided any conflicting survey information.
- b. The work along the entrance drive will involve grading and removal of existing trees. This work would be along the side property line with the Bray/Connarton parcel. A portion of this area could be affected by the resolution of paragraph a. above.
- c. Note 10. of the subdivision plan refers to a “road maintenance agreement” that is part of the “approved development”, and which agreement is to be recorded at the York County Registry of Deeds. The actual document is entitled “ROAD AND STORMWATER FACILITIES MAINTENANCE CONENANTS”. I have asked that the note be changed to specify the book and page number of the recording at the Registry of Deeds. This would require the recording take place prior to the Planning Board’s signatures to the final subdivision plan. To do this it would be necessary for the Planning Board to approve the subdivision but delay the signing of the plans until the “agreement” is recorded with the appropriate recording information placed in Note 10.
- d. I have requested that storm water easements be granted to the Town of Sanford over the entire parcel. This would include the “Easement A” area as well as the brooks that run over the property. Mr. Fisher believes that the owner will agree to that and will provide language for such easement for me to review. The storm water easement will provide for flowage and for maintenance to be performed as the Town may determine.
- e. The Sewer District does not pay a lot of attention to the details of the sewer service on private property, but where this is a shared pressure sewer, I observed that at the depths shown it may be susceptible to freezing. Mr. Fisher agreed to review that for the benefit of his client. It is noted that the detail shows a horizontal service connection into a main, while the plans show a service connection into a manhole structure with flow direction from the service opposing the flow in the sewer. This is a detail that is subject to the control of the Sanford Sewer District.
- f. Concerning the Performance Guarantee, I would expect that the design engineers provide a schedule of values for the sewer, water, earthwork, drainage work, paving, and miscellaneous costs associated with the project, which would be the basis of the performance guarantee to be submitted by the developer / owner, **or** I would accept the limitation that no Occupancy Permit (or Certificate of Occupancy) be issued for either dwelling until all of the work shown on the plans is completed per design. The Planning Board has the final say on the Performance Guarantee. Mr. Fisher believes that the owner would prefer the restriction on the occupancy permit. The difficulty is that in the event that both parcels are sold prior to development, control over responsibility and cost sharing can become problematic.

Subject to the resolution of these items I believe that the project is in order for Planning Board action. I expect that Mr. Fisher will resolve these items before of during the Planning Board meeting on November 17, 2010. Please let me know if you have any questions or if you require additional information.

Sincerely,



Charles J. Andreson, P.E., AICP
Town Engineer/Director of Public Works

EC: Jim Fisher (Northeast Civil Solutions)
Michael Casserly
Shirley Sheesley