

SANFORD PLANNING BOARD MINUTES
MEETING December 7, 2011 – 7:30 P.M.
Town Hall Annex Third Floor Chambers

MEMBERS PRESENT: Kelly Tarbox, Chair
Robert Hardison, Vice Chair
David Mongeau, Secretary
Stephen Catalano, Jr.
Lela Harrison

MEMBERS ABSENT: Joseph Herlihy (w/notice)
Matthew Perkins (w/out notice)

STAFF PRESENT: James Q. Gulnac, AICP, Planning & Development Director
Charles Andreson, P.E., AICP, Town Engineer
Shirley Sheesley, CEO

STAFF ABSENT: Michael Casserly, P.E., Assistant Engineer (w/notice)
Barbara Bucklin, Administrative Assistant (w/notice)

I. CALL TO ORDER

Chair Tarbox called the meeting to order at 7:30 P.M. The meeting reopened after the work session at 9:33 P.M.

II. PUBLIC HEARINGS

1. File #01-11-R: JMS Cleaning, c/o Fred Smith, 12 Myers Lane, Springvale, Maine.

Chair Tarbox called for a representative to present the project.

Fred Smith, applicant and owner of JMS Cleaning, said that he has been in business in Sanford for 27 years. He received a Certificate of Occupancy from the codes office to run his business at his present location on River Street within the past five years, and he was asked for a site plan review.

Staff member Gulnac said there was an issue about how this type of activity was defined in the ordinance. There was also an issue about the right, title, & interest of the property. The Board had previously accepted an email from the property owner, Jonathon Morse, stating that Mr. Smith had permission to be on the property. Mr. Gulnac also said that if the Board should approve the application, the approval goes only to Mr. Smith on this site; it can't be transferred to another owner, property, or location if Mr. Smith should move. Staff member Gulnac pointed out that, if the Board should approve this request, the approval is allowing only Mr. Smith's operation during the week, not the activity that is taking place on the weekends; Mr. Gulnac gave further detail as to why. Mr. Gulnac also said that there is an old activity description on file, and the Board may want to review the current activity. Mr. Gulnac asked Shirley Sheesley, Chief Codes Enforcement Officer, to address the Board.

Ms. Sheesley pointed out the areas on the property where different activities for Mr. Smith's business were taking place. She also said that Mr. Smith is aware that he is allowed to do what is shown on the plan tonight; any activity not outlined on the plan is in violation of his approval, if the Board should grant him it. Chair Tarbox asked Ms. Sheesley if she had a list of current activities and Ms. Sheesley replied she was not sure. She said she has an operations manual dated

October 2008. Staff member Gulnac suggested to the Board that a new operations manual be drawn up and agreed to by staff. Discussion took place and Chair Tarbox said that the Board would not have to approve the manual; a condition could be placed on the approval stating that an updated manual of operations be drawn up and approved by staff.

Staff member Gulnac told the Board that he didn't feel like there were any outstanding issues other than finalizing the approval, the applicant understanding the conditions of the approval, and the approval is for his operation only at his current site.

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; again, there was no one.

Chair Tarbox asked Board members if they needed any further discussion on this application in a work session; they did not.

Chair Tarbox called for a motion.

Board member Mongeau made a motion that the Planning Board confirm the Finding of Facts (see attached) and find File #01-11-R, JMS Cleaning, c/o Fred Smith a final conditional site plan application to operate a materials recycling facility at 13 River Street has been prepared in conformance with the Town of Sanford land use code and grant a conditional use permit and recommend approval subject to the following conditions:

- a) The applicant has agreed to any and all changes recommended by the Planning Board.
- b) The approval is granted to JMS Cleaning and is non-transferable.
- c) The approval is conditioned upon the owner of the property, either current or future, agreeable to the use.
- d) The approval is subject to any conditions or requirements of the CEO to meet permit requirements.
- e) The applicant pays any and all outstanding review fees.
- f) A Manual of Operations to be supplied and approved by staff.

Board member Catalano seconded the motion.

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

2. File #19-11-R: Cafua Management Company, LLC, d/b/a Dunkin Donuts, c/o Huseyin Sevincgil, MHF Design Consultants, Inc., 44 Stiles Road, Suite One, Salem, New Hampshire.

Chair Tarbox called for a representative to present the project.

Huseyin Sevincgil, MHF Design Consultants, Inc., representing the applicant said the proposal involves two parcels – the parcel the building currently sits on and the empty lot behind it. The intent of the application is to improve the drive-thru conditions and overall site conditions. Mr. Sevincgil went over current site conditions and described the proposed site development. Some of the changes include: better drive-thru vehicle stacking, menu board further from pick-up window to allow for more order preparation time for employees, allowing 15 vehicles in drive-thru lane without disrupting Roberts Street traffic, two parking lot entrances off Roberts Street further from the Main Street intersection to decrease traffic back-up onto Main Street, and internal traffic flow changes.

Mr. Sevincgil said the application went through a technical review earlier in the day (Site Plan Review Committee) and asked the Board if they wanted to hear that information now. Chair Tarbox said the application would be going to work session for discussion and those items could be discussed there.

Chair Tarbox asked Board members if they had any questions; they did not at this time.

Chair Tarbox asked if anyone present would like to speak in favor of the application.

Fred Smith, frequent customer of Dunkin Donuts, said that he thought this proposal was much better than the current site layout because sometimes drive-thru vehicles block traffic.

Chair Tarbox asked if anyone else would like to speak in favor of the application; there was not.

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

Durward Parkinson, representing Elizabeth Belmont who owns the former bank building abutting Dunkin Donuts, first thanked the Board for hearing their concerns. Some of their concerns were property values and protection of interest in property, no adequate buffer between the drive-thru lane and Ms. Belmont's property, spillover of lighting onto her property, noise from drive-thru ordering, snow removal from the Dunkin Donuts property, and fire lane compliance.

Chair Tarbox confirmed that the lot they were talking about was the former TD Bank building, a commercial lot not a residential lot.

Mr. Parkinson said that he understood that his client owns a commercial property, but said they still have concerns with the proposal and the fire lane issue and would like to hear the proposal in more detail. His client then addressed the Board.

Elizabeth Belmont, owner of 923 Main Street, said she is aware of the traffic issue on Roberts Street and her concerns are not only about the impact on her property but also about the impact of development of the downtown. She said that the entire time each of her tenants were occupying her building there were issues with dumping of snow on her property, trash issues, illegal parking, trespassing issues, etc. Ms. Belmont claims that she has attempted to work with Cafua Management in the past but nothing was resolved.

Ms. Belmont is asking the Planning Board to consider having the applicant required to put a buffer between the two properties, and would prefer a landscape buffer. She would also like the Board to require the applicant to provide a snow removal plan as well.

Chair Tarbox asked if anyone else would like to speak against the application; there was not.

Chair Tarbox closed the public hearing and moved the item to work session after the meeting.

The Board considered the request after the work session discussion.

Vice Chair Hardison made a motion that the Planning Director, James Gulnac read the motion.

Staff member Gulnac corrected a finding of fact item referencing the Site Plan Review Committee meeting to read: 'Site Plan Review Committee reviewed the application and forwarded to the Planning Board subject to fire marshal approval.'

Once this change had been noted, Mr. Gulnac read the motion.

The Planning Board confirm the Finding of Facts (see attached) and after consideration of the public comments and those of the staff, find that the request for major site plan, File #19-11-R, Dunkin Donuts/Cafua Management LLC as amended this evening (December 7, 2011) has been prepared in conformance with the Town of Sanford Land Use codes and the laws of the State of Maine and grant approval subject to the following conditions:

- a) That any and all outstanding fees be paid.
- b) That the applicant/developer complies with any and all local and/or state building code requirements.
- c) That the applicant/developer complies with any and all fire safety code requirements as shown on the revised site plan.
- d) That the applicant complies with the Town of Sanford's Traffic Fee Ordinance.
- e) That the applicant makes any revisions to the plan agreed to at the meeting as follows:
 - A six (6)-foot beige vinyl fence, good side facing out, be placed along the southerly property line to the limit of the front Main Street side of the store.
 - The Planning Board recommends to the Town Council that there be no parking extended completely along Roberts Street along the property.
 - That there be a mandatory pre-construction meeting held with the town engineer, chief of police, and possibly the fire marshal to discuss traffic control, including pedestrian traffic, during construction.
 - The applicant will inform the delivery truck drivers that they will make a left-hand turn onto Roberts Street when exiting the site.

Board member Mongeau seconded the motion.

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

- 3. File #20-11-S: Donald H. & Denise L. Roux, c/o John Hutchins, Corner Post Land Surveying, Inc., 2 Mill Street, Springvale, Maine.**

Chair Tarbox called for a representative to present the project.

John Hutchins, Corner Post Land Surveying, Inc., representing the applicant gave a brief overview of the application. Mr. Hutchins said the applicants own a property on High Street in front of South View subdivision. The Roux's are in a purchase and sale agreement with their abutter for a land conveyance and since this is an amendment to an approved subdivision the Planning Board needs to approve this exchange. The land swap does not affect any set backs required in the current land uses ordinances of the town for the remaining subdivision lots.

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; again, there was no one.

Chair Tarbox asked if Board members were comfortable acting on this now instead of sending the item to work session.

Vice Chair Hardison made a motion that the Planning Board accept the recommendations of the Planner and confirm his comments as a Finding of Facts (see attached) and find that application File #20-11-S South View Amendment, c/o Donald & Denise Roux, for a revision to the subdivision and private way plan 'South View' has been prepared in accordance with the requirements of the Sanford land use codes and the regulations of the State of Maine subject to the conditions as follows:

- a) The revised plan will be filed at the York County Registry of deeds within 90 days of the approval or it may be declared null and void.
- b) The applicant has paid any and all outstanding review fees.

Board member Catalano seconded the motion.

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

III. NEW BUSINESS

1. **File #20-11-S: Donald H. & Denise L. Roux, c/o John Hutchins**, Corner Post Land Surveying, Inc., 2 Mill Street, Springvale, Maine.

This item was voted on after the public hearing took place.

IV. OLD BUSINESS

1. **File #11-11-RU: Heather Torno, d/b/a Northern Explosion Dance**, 6 Pearl Street, Sanford, Maine.

Chair Tarbox called for a representative to present the project. She also stated that the outstanding issue for this application was land ownership.

Staff member Gulnac briefly updated the Board as to what this issue was, which was a clear transfer of property ownership. He continued by saying he was comfortable that the required documents would be prepared correctly by the applicant and Corner Post Land Surveying, Inc. A brief discussion took place.

Chair Tarbox asked if there were any other questions or concerns by Board members.

Vice Chair Hardison said he felt that a condition of approval should be added stating that a surveyed plot plan should be brought to the planning department.

Chair Tarbox asked Chris Roux, representing the applicant if he understood the conditions being placed on the approval. Mr. Roux stated he did.

Chair Tarbox called for a motion.

Board member Harrison made a motion that the Planning Board confirm the finding of facts (see attached), accept the recommendations of staff and find that application File #11-11-RU tax map R12, lots 92 & 101, Northern Explosion c/o Heather Torno for a conditional use/final major site plan has been prepared in accordance with the conditions of the preliminary approval and grant approval with the following conditions:

- a) A waiver for the number of parking spaces is granted.
- b) The applicant has paid any and all outstanding review fees.
- c) The applicant is aware of the required and agreed upon Traffic Impact Fee which is to be paid when building permits are applied for.
- d) Compliance with any and all building code and fire code is required.
- e) The CEO will confirm compliance with the proposed landscaping prior to the issuance of an Occupancy Permit.
- f) Final plot plan to be delivered to the Planning Department.
- g) A signed purchase and sale agreement provided to staff.

Vice Chair Hardison requested the Board change the condition referencing the purchase and sale agreement be amended by adding 'to be delivered to the planning department by end of business tomorrow.'

Board member Harrison amended the final condition to: A signed purchase and sale agreement to be delivered to the Planning Department on December 8, 2011 by 5:00 PM.

Board member Catalano seconded the motion.

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

V. APPROVAL OF MINUTES – October 19, 2011 and November 16, 2011

The minutes were not ready for approval at tonight's meeting.

VI. PLANNING DIRECTOR'S REPORT

Staff member Gulnac asked Chair Tarbox if the Board could address the sign request by Lionel Sevigny for the Little Theater building before going into work session. He asked Shirley Sheesley, CEO to update the Board on the request.

Ms. Sheesley read the signage requirements allowed by ordinance for the zone the Little Theater building is in. She said the applicant is requesting a second free-standing sign for this business and the Planning Board does have the authority to approve a second sign. There was discussion on the type of sign being requested and whether or not this sign would fit into the overall aesthetics of the center of Springvale.

Chair Tarbox asked Board members if there were any questions or comments; there were not.

It was decided that the Board would make a motion for approval.

Board member Mongeau made a motion that the Planning Board grant permission to staff to make the decision whether the additional sign that is granted by the Planning Board does meet the codes and is therefore allowed.

Chair Tarbox said the reference about the sign meeting codes does not need to be included in the motion because Shirley would not allow any sign to be placed without meeting code.

Vice Chair Hardison wanted to ask a question about the design of the sign before voting on the motion.

Discussion took place on whether or not the sign was going to be neon as is stated on the proposal, and asked if the placement of the sign would be on Little Theater's property or on public property. Also discussed was the size and height of the sign being proposed.

After discussion, it was decided that the Board needed to see a more realistic representation, like design specs and a photograph before the Board can make a decision.

If the applicant can provide the requested information, the Board will make a decision at their next meeting in two weeks – December 21, 2011.

VII. ADJOURN

The meeting adjourned at 8:10 P.M. and moved into work session. The meeting adjourned at 9:37 P.M.

Attachment to December 7, 2011 Minutes

*Finding of Facts for Public Hearing Item #1
File #01-11-R: JMS Cleaning*

- In previous reviews it was determined that Mr. Smith was a tenant in good standing at the property identified as 13 River Street.
- As noted in the Background section above the activity is defined as a “Material Reuse Facility” and is permitted as a CU (Conditional Use) activity in the IR zone.
- The property at 13 River Street has been the subject of numerous reviews and actions relating to the existence of hazardous materials both in the buildings and in the ground.
- JMS Cleaning is not responsible for any of these conditions under review by the EPA and state DEP.
- The purpose of this review is to establish a “site plan” and a statement of operations describing how Mr. Smith operates his material reuse facility.
- I have waived the requirement that the “site plan” be prepared by an engineer or surveyor and have accepted a photo copy of the aerial with areas of activities identified on the plan.
- Any approval granted would be granted exclusively to JMS Cleaning, c/o Fred Smith as a Conditional Use Permit and would not be granted to the property. Any approval granted would not be transferable to any other location. Any approval granted would be automatically terminated in the event that the property was condemned by the EPA or DEP as being hazardous and unhealthy.
- The approval granted would be for the purpose to establish clear ‘ground rules’ under which Mr. Smith would be able to continue to operate his business and be used by the codes office to monitor the on-site activities.
- The SPRC forwarded the application to the Planning Board with a recommendation to approve with conditions and to accept the Finding of Facts proposed by the Planner.

*Finding of Facts for Public Hearing Item #2
File #19-11-R: Dunkin Donuts*

- The applicant has provided proof of ownership of the property and has standing to make the application.
- Issues raised by the Fire Marshal have required that the site plan be modified to permit a 25’ wide aisle located thru the parking lot on the Roberts Street side of the parking lot. A 25’ setback needs to be maintained around the propane tank location.
- The SPRC reviewed the application and forwarded it to the Planning Board with comments, including issues raised by an abutter (Elizabeth Belmont) concerning the overall impact and the request that a vegetative buffer be required along the common property line (drive-thru lane).
- The applicant has agreed to make the necessary minor adjustments as recommended by the review staff; however the issue concerning the buffer is referred to the Planning Board.
- That the applicant has discussed the terms of the Town of Sanford Road Impact Fee Ordinance with the Town Engineer.
- The Planning Board held a public hearing at which time Fred Smith spoke in favor and Mrs. Belmont spoke against raising a number of issues including a vegetative buffer and how snow removal was to be handled.
- During the work session the Board reached a number of conditions of approval and added them to the Finding of Facts:
 - The applicant will construct a beige vinyl fence along their property line on the south side of their property starting at the rear corner and ending even with the front of the Main Street side of the building.
 - There is to be no parking on the south side of Roberts Street along the property.
 - The delivery trucks will turn left only when exiting the site onto Roberts Street.

- There will be a mandatory pre-construction meeting scheduled with the Town Engineer at which time a construction schedule will be reviewed and coordinated. Furthermore, the applicant agrees to reimburse the Town of Sanford Police Department for the cost of traffic control at the times that construction is taking place in the public right-of-ways. A pedestrian safety plan will also be provided.

*Finding of Facts for Public Hearing Item #3(This item is also listed as New Business Item #1)
File #20-11-S: South View Amendment*

- Ownership and agreement to the transfer has been verified with a bill of sale and deed so that the applicant has standing to submit the application.
- This application was under review prior to the Council's approval of the revisions to the Land Use Codes therefore any references to the codes will be made under the code at that time.
- The revision to a lot line with metes and bounds description and contained on a plan reviewed and approved by the Planning Board and filed at the County Registry of Deeds requires the review and approval of the Planning Board.
- Article VIII of Chapter 275 outlines the procedures for the revision to an approved plan. Per those guidelines, I have scheduled the request as a final review with the requirement of a public hearing.
- The application is scheduled as a public hearing and new business action item.
- I have waived any review by the town engineer as there are no site plan related items.
- The CEO has confirmed that the revised lot line does not create any nonconforming conditions on either impacted parcel.

*Finding of Facts for Old Business Item #1
File #11-11-RU: Northern Explosion Dance Studio*

- The applicants were instrumental in an ordinance change which clarified the definition of commercial schools to include Dance Studios, make them a conditionally permitted use in the RMU zone, and in addition to the standards required for a site plan review, set up specific conditions in Section 280-66 F. Standards for conditional use approval.
- Section 280-66.F6 States that review and approval by the Planning Board is required and the classification of the application is to be determined by the Planning Director. I have classified the application as a minor site plan.
- The applicants indicated in their site plan notes that "property boundaries are estimated based on scanned image overlay of proposed subdivision". Included in the application is an unsigned memo from Bob Libby (Just Land LLC) indicating that he would sell "a parcel of land off Route 4 in Sanford containing ten acres, more or less".
- The current GIS indicates that tax map R12/92 of 49 acres is owned by Leo Paul Guillemette Living Trust and tax map R12/101 of 0.49 acres is owned by Just Land LLC.
- One of the requirements of the application review process is a clear understanding of the property being reviewed. It appears that the following conditions exist with this application:
 - That Just Land LLC is owned by Bob Libby.
 - That Just Land LLC owns both subject lots.
 - That Bob Libby has agreed to sell a parcel of land of approximately ten (10) acres with at least 250' frontage on Route 4 to the applicant.
 - That a division is anticipated but no subdivision plan has been provided with this application.
- The Planner accepted the information as fact and therefore recommends that any approvals granted be conditioned upon the verification that whatever steps are required to create the referenced 10-acre parcel and the subsequent transfer of ownership from Just Land LLC (Bob Libby) to Heather Torno be accomplished and verified prior to the issuance of permits.
- The application was reviewed by the Planning Board on September 7, 2011 and granted a conditional preliminary approval.

- When the applicant had satisfied the conditions of the preliminary approval action, the Planning Director was to schedule the application for the next available Planning Board meeting, no Public hearing required. This meeting was December 7, 2011.