

## **Planning Board February 3, 2015**

**Members present:** Chair Ernie Allain, Members Greg Estrella, Aline Boucher, Mark Evans, Martha Creegan, Lori Langlois, Tom McCue; Ex-Officio Members Lucie Remillard, Sue Tremblay and Alternate Members John White and Richard Cassidy

**Others present:** Community Development Director Pam Laflamme; Derek Patry of York Land Services; Applicant Paul Croteau and Applicant Jacqueline King

**Public Comments** – none

### **Approval of January Minutes**

Ms. Remillard moved with a second from Ms. Creegan to approve the minutes of the last meeting. So moved, the motion carried.

Mr. Cassidy indicated that he was not listed as absent for the last meeting.

### **Site Plan Review – Parking Facility Application Jericho Road**

On behalf of Mr. Paul Croteau, Derek Patry provided plans for a parking facility on Jericho Road to the Board. Paul Croteau confirmed that he did not have any proposed changes to the plan. Mr. Croteau indicated he had met with both Police and Fire and that they had no comments on the proposed plan.

Mrs. Boucher moved to accept the plan as complete; Ms. Remillard seconded and the motion carried.

### Public Hearing

Chair Allain opened the public hearing at 6:35 p.m.; there were no comments and he subsequently closed the public hearing at 6:35 p.m.

### Board Discussion

Mr. Estrella questioned whether the fence would be chain link or wooden. He commented that a wooden fence would not allow anyone to see what is going on inside. Ms. Laflamme added that the Code Enforcement Officer would prefer an unobstructed view into the property.

Ms. Creegan asked if there was more information on whether there were any NHDES restrictions. Ms. Laflamme noted that if the facility is strictly doing repossessions NHDES is not involved; however when vehicles are towed because of an accident or are in need of repair, there is a series of best management practices that has to be adhered to. Repossessed, inspected, registered, working cars are not a problem but when uninspected, or cars involved in an accident are parked, then there needs to be certain things done to deal with any leakage such as the use of non-porous materials. Ideally those vehicles would be stored on a non-porous surface like a concrete pad. Even if it is one random vehicle, best management practices still have to be followed.

Mr. McCue mentioned that copper has been stolen from other properties and he questioned how much security the proposed fencing will provide. Mr. Croteau commented that neighbors don't want to see a chain link fence with barbed wire. He said his intent was to put a wooden fence and stain it to the neighbor's liking. He added that items will be stolen from his property if they can be seen.

Ms. Laflamme indicated that the Fire Department codes don't apply provided this is a true parking facility for simply repossessing vehicles. The Police Chief said that they already work with three local service businesses for impound purposes and they do not plan on needing impound services from this business. Mr. McCue asked about the zoning for Business General and Ms. Laflamme confirmed that there is not a zoning issue.

Ms. Laflamme suggested going through the recommendations suggested by staff and the City's attorneys adding that the final decision is up to the board. Ms. Creegan asked if a special exception will be necessary for a higher fence if the board asks for one and Ms. Laflamme stated that if the Planning Board requires a higher fence, then he will have to do as asked by the Planning Board. Mr. Estrella asked about lighting and Mr. Croteau indicated that he will be using the existing lighting in addition to three cameras on the property. Ms. Remillard asked about the neighbors and Ms. Laflamme confirmed that abutter notices were sent out, signed and returned by the abutters. Ms. Remillard commented that she can see why the City would want a chain link fence and can also see how the neighbors would prefer a wooden fence. Mr. Estrella asked about insurance and Ms. Laflamme replied that it is up to the applicant to obtain insurance.

Mr. Croteau stated that if there were an unregistered vehicle, he has access to plates for a repair facility and he can get as many as needed. This he said would allow him to put these plates on the vehicles so that they are registered. The longest he's had a vehicle was 1.5 years. The insurance eventually paid and they did not want the vehicle. Rather than paying fines, fees and towing, it is legal for them to turn the title over. Mr. Croteau added that an average car does not sit in the lot too long with the average being three to six months.

Ms. Laflamme noted that there could be chain link fence along the frontage of the property and wooden fences along the property lines. Mr. Evans stated that he feels it is in the public interest to have a wooden fence as the applicant wishes, for aesthetics. With cars parked, it will be a blight and if the applicant is willing to put a wooden fence, it should be allowed. He added that he would seek to bind Mr. Croteau to inspections. Mr. Cassidy suggested a lock box key where the inspector would have access and Mr. Croteau objected to that due to liability concerns.

Mr. McCue made the point that with Jericho Park on that route, there is a lot of traffic and the shabbiness of the area has become a concern. Ms. Remillard said that it makes sense to put a wooden fence on the side of the neighbors and to have chain link in the front. If conditions are violated, the code enforcement officer will do his job and make sure the agreement is followed. If the conditions are not abided by, the city will take the next step to

make sure the conditions are enforced. Mr. McCue added that the see through fencing could be helpful for the Police Department as well. Ms. Creegan asked if Mr. Croteau expects to use all 42 parking places and he replied that he's never had that many.

Proposed conditions:

1. Any fencing erected on the property shall be chain link.
2. All trucks shall be parked in the rear of the lot. No large or tall vehicles will be parked in the front of the property along the fence line that will obstruct the view into the property.
3. No other items will be stored on the property except for vehicles that can be towed; trucks and automobiles only.
4. Vehicles that are stored on the property will have a valid inspection sticker, have a valid registration and be in a condition that allows for the legal use on public ways.
5. Vehicles shall not be stored on the property for more than six months.
6. A manifest system shall be kept for all vehicles brought on to the property which will list the vehicle's VIN number, the date it was brought to the property, date it left the property, and the disposition (place and manner the motor vehicle was sent when it left the property). Log entries are to be made the same business day that the motor vehicle enters the property and exits the property. This list will be available for inspection upon request by the City's Code Enforcement Officer.
7. There will be no dismantling done onsite. If for any reason a vehicle requires attention onsite, all NH Department of Environmental Services Best Management Practices shall be followed.
8. Motor vehicles, when leaving the site, must be disposed of via legal means; i.e. licensed motor vehicle junk yards, to the secured creditor in cases of repossessions, legal retailers and/or legal wholesalers. Applicant may not remove motor vehicles from the lot to property or another location where storage constitutes a violation of state or local law.
9. The City's Code Enforcement Officer will be granted access to the property and the manifest system for inspection upon request.
10. If at any time the property owner wants to expand the scope of the operation, application shall be made to the City of Berlin Planning Board and if applicable the NH Department of Environmental Services.
11. This Site Plan approval is only valid under the current ownership of the property and shall not transfer to subsequent owners. Any new owners of the property will need to reapply to the City of Berlin Planning Board to continue the activity permitted under this notice of decision.
12. Storage at the property shall be limited to the motor vehicles referenced above that are connected to the business: no storage of private automobiles, boats,

trailers, RVs, or any other materials not connected to the business is permitted at the site.

Ms. Laflamme read the conditions proposed by staff and the City's attorneys. She informed the Board that they have the option to table their decision and reconsider the matter next month. Ms. Remillard said that she would love for this to be tabled so that the Board can review and take time to consider the recommendations. Ms. Creegan stated that she wants to know what the ramifications are to the applicant and she needs to understand the Board's obligations.

Mr. McCue asked if the manifest log is required by the State and Ms. Laflamme said that the City attorney recommended that such a log be kept based on this application and so that the City can properly document how vehicles are being disposed of. Mr. Evans invited Mr. Croteau to comment on the proposed conditions.

Mr. Croteau remarked that the city has a problem with his stuff and he questioned whether he could bring it to another one of his properties. He commented that he has a garage kit, construction material, firewood, mowers, barn for tire storage, construction vehicles, RV's, summer cars, four wheelers and storage trailers. He said that when he bought the property, it was used for storage. He has a camper and boat. Ms. Laflamme noted that the Board may want to ask for a list of personal property that is intended to be kept on the property. Ms. Creegan commented that this redefines the purpose of the property. Mr. Croteau stated that he should be allowed to keep his personal items on the property. He asked if Mr. Auto has to document his personal stuff.

Ms. Laflamme stated that Site Plan Review has been in effect since 1992 and any businesses that predate are not subject to same process and businesses that are not in compliance are not the issue here. All that can be considered is what is in front of the Board at this time. Mr. Evans asked what condition is not allowing personal storage. Ms. Laflamme read back the last condition that does not allow storage of private vehicles or of storage containers. Mr. Croteau commented that he will be back in court if he moves the items to another property and he does not want to go back.

Mr. White asked if it is the intent to store vehicles for other people. Ms. Laflamme stated that if that is the case, we may want to re-notice abutters as the plans for short term storage. Mr. Croteau said that he should not be penalized for having boats, lawn equipment, tires, camper, summer cars, and other long term storage needs for personal stuff. Ms. Laflamme suggested a comprehensive list of everything to be stored and Mr. Croteau asked if he could have one side for personal stuff and the other for short term storage. He added that what is there now would remain including his camper, his son's stuff, his wood pile where he cuts and splits his wood.

Ms. Laflamme explained that use of a lot primarily for this type of storage is not allowed; the lot has to have a primary use such as a business or a residential use in order to have accessory uses. The primary use of the lot needs to be the business, then an accessory part

of the lot could be segregated for personal storage with a list of what will be there. Mr. White indicated that he would not support 20 spaces or half of the lot being personal.

Mr. McCue suggested that before we get too far by amending the application, it was suggested earlier that the application be tabled to allow the board to review the proposed conditions. When the plan was drawn up it was clearly labeled that the parking facility was not to be used as a junk yard and that there would be no dismantling; however he did not know how far we could regulate. Ms. Remillard agreed with tabling and if the applicant comes in with more specifics, we would be better prepared for next meeting.

**Ms. Remillard moved to table the application until the next meeting; Mrs. Boucher seconded and the motion carried. Ms. Creegan confirmed that the board and the applicant will receive the list of proposed conditions.**

Ms. Laflamme announced that this serves as the public notice that the application will be continued at the March 3, 2015 Planning Board Meeting beginning at 6:30 p.m. at City Hall.

### **Boundary Line Adjustment**

Jacqueline King, 480 Western Avenue has applied for a boundary line adjustment between properties owned by her and Lacasse Paving & Construction Company Inc; Tax Map 117, Lots 84 and 85

Mrs. Boucher moved to accept the application as complete; Ms. Langlois seconded the motion and the motion carried.

Ms. Laflamme indicated that there are no problems with the request. The garage shown on the plan as being on the line will now become part of Lot 85. This gives the new combined lot sufficient acreage and frontage to be a legal lot. The lot owned by Lacasse Paving will still have plenty of acreage and frontage after the adjustment so that it will not lose its status as a legal lot.

### Public Hearing

Chair Allain opened the public hearing at 7:25; there were no comments and he subsequently closed the public hearing.

**Ms. Remillard moved to approve the boundary line adjustment of Tax Map 117, Lots 84 and 85; Mr. Estrella seconded and the motion carried.**

### **Other – Master Plan Review**

Ms. Laflamme distributed the chapter on Vision. It has been five years since the plan was adopted. Ms. Laflamme this is the first step in reviewing the plan and asked that when reading the chapter to consider whether the main parts of the vision are still valid and whether the City is still working toward them or whether things have been changed enough that maybe the vision needs to be adjusted. The Board should also answer the question, “Have we moved forward?”

With regard to the Master Plan, Ms. Laflamme reported that to save money, two chapters were left out for staff to complete, the first being the Housing Chapter and the second is the Cultural and Historic Resources chapter. Neither chapter has been completed and staff will need to work on both of these chapters.

As additions to the Cultural and Historic chapter, Ms. Laflamme mentioned the work that WREN has done in the last five years. Mr. McCue mentioned the work the North Country Council is doing and Ms. Creegan added that the Mt. Jasper Plan had not been initiated.

Mr. Evans asked if the City Council has accepted the Master Plan and Ms. Laflamme confirmed that they did.

**Public Comments** - none

**Member Comments** - none

**Planner Comments**

Ms. Laflamme stated that she will send the list of recommendations for the Site Plan Review to the Board. She cautioned that there are to be no group e-mail conversations or any outside conversations regarding the application while it is tabled. If there are specific questions, they should be asked of her or the Code Enforcement Officer.

Mrs. Boucher moved with a second from Mr. Estrella to adjourn. The meeting ended at 7:45 p.m.

Respectfully Submitted,  
Susan Tremblay