

Planning Board
August 21, 2007
Approved September 18, 2007

Members Present: Bill Weiler, Vice-Chair; Travis Dezotell; Deane Geddes; Tom Vannatta; Ron Williams; Ken McWilliams, Advisor

Mr. Weiler called the meeting to order at 7:30 p.m.

CASE: Adm1-022 – Upper Valley Lake Sunapee Regional Planning Commission

Nancy Marashio was present to discuss her role as Newbury's representative to the **Upper Valley Lake Sunapee Regional Planning Commission**. She gave the Board some background on her experience and talents and emphasized that her intent is to be a communicator between the Town of Newbury and the UVLSRPC. She informed the Board that the Regional Planning Commission has just made a new policy that 15% of the Town's dues will be applied to some project that the Town would like the Commission to do. The Planning Board needs to decide what it would like that project to be and what role it wants Ms. Marashio to play. She explained that she is on the Strategic Planning Committee and asked the Board what it would like her to prioritize and how it would like her to communicate to the Board. She asked the Board what kind of information it currently gets from the UVLSRPC and what does the Board need.

Mr. Weiler commented that the Board needs a run-down of the services that the Planning Commission provides.

Ms. Marashio presented some handouts on the Comprehensive Shoreland Protection Act, Rebuilding Roads, Safe Routes to School and a Housing and Conservation Planning Program.

The sense of the Board was that informational literature and notice workshops and conferences would be a good place to start.

Mr. Weiler suggested that Ms. Marashio should plan to come to the meet with the Planning Board during a Worksession meeting, probably every other month or so. No define plans were made until Barbara Freeman, Planning Board Chair is consulted.

Bob Stewart, Newbury Resident, suggested that a Lake Sunapee regional meeting held by the State would be helpful to discuss the Comprehensive Shoreland Protection Act and answer questions from Board members on intent and interpretation. Perhaps the UVLSRPC could coordinate that forum.

Mr. Weiler commented that he would like to see the Regional Planning Commission advocate for road improvement.

Ms. Marashio commented that the Department of Transportation is holding a meeting soon and looking for input on highways.

Mr. Williams commented that a bike route along Route 103A is very important for safety. He stated that coming from an engineering point of view, there is room to build a path for bikes and pedestrians on the lake side of Route 103A.

Mr. Dezotell commented that he is very interested in the school bus project. He stated that any type of action to facilitate activity along Route 103A is an improvement.

CASE: 1997-010 – Site Plan Review – “Captain’s 1st Choice” - David Long – 546 Route 103 – Tax Map Lot 43-797-526

Bob Stewart, RCS Designs, was present to represent David Long for a discussion to determine if a Site Plan Review Hearing is required for changes to an existing approved site plan. Mr. Stewart explained that while he and his client went through the site plan review regulations and looked at what he was trying to accomplish and found that Mr. Long was over the maximum expansion size allowed by Article 3.1.2 of the Site Plan Review Regulations:

3.1 Criteria: *A landowner shall obtain Site Plan Review approval from the Board for the following types of development:*

...3.1.2 *additions of more than 500 square feet of floor area to such existing principal and accessory buildings or 10% whichever is less;*

Mr. Stewart explained that he tried to give as much information as possible to the Board to show what the actual expansion was and ask the Board’s opinion if it is their interpretation that a full site plan review hearing is necessary for this minimal impact improvement to the site. Mr. Long wants to add a porch to the front of the building that will extend out 10 ft. This covered porch will make the building more visually appealing and allow for added seasonal retail space. The proposed porch will be at the same elevation of the existing slab. There are plantings proposed to protect the porch from being driven into and to enhance and improve the look of the building. This is not a huge expansion and not intended to change the use but to improve the site. Mr. Long is asking for site plan review to not be necessary because it does not change anything that was in the original site plan review except to make the building more appealing. Mr. Stewart informed the Board that there is a snow removal problem. The snow currently comes off the roof and packs against the building. This porch will resolve the snow issues at the front of the existing building.

Mr. McWilliams asked Mr. Stewart to address the notation on the plan of a future 24 ft. x 7 ft. greenhouse.

Mr. Stewart explained that he advised Mr. Long to put all of his thoughts for future plans in the presentation in order to let the Board know up front anything and everything that

may need to be considered. The greenhouse, whenever that comes to fruition, is planned to be on the side of the building.

Mr. Weiler asked Mr. Stewart if he was aware that the current business has been operating illegally for two years and the owners have been asked to come in to the Planning Board for a Site Plan Review Hearing for a change of use.

Mr. Stewart stated that there is nothing in his records to indicate the communication.

Mr. Weiler explained that Mr. Long came to the Planning Board for a site plan review for an auction hall and a function hall. Since those uses were not on the list of permitted uses in the regulations, Mr. Long was sent to the Zoning Board of Adjustment for a Special Exception.

Mr. Stewart explained that as a result, the Zoning Board of Adjustment found the auction hall to be a retail business and therefore did not need a special exception. This proposal is also for retail. He commented that the Planning Board has been generous in allowing different changes of use in Town as businesses have evolved and hopes that the Board would extend the same courtesy to Mr. Long.

Mr. Weiler asked Mr. Stewart how big is the proposed porch addition in square footage.

Mr. Stewart stated that the proposed porch addition is 90 ft. x 10 ft.; 900 sq. ft.

Mr. Weiler pointed out that according to the site plan review regulations; the maximum allowed expansion is 500 sq. ft.

Mr. Stewart explained that this addition is not a substantial change in the use of the building. It is only meant to enhance the appearance and allow for some of the winter problems to be resolved. He commented that Mrs. Freeman made a statement at the original site plan review hearing that she did not want to see something that looked like a box. This proposal would resolve that plain square building look.

Mr. Weiler reminded Mr. Stewart of the site plan review Article 3.1.2.

Mr. Stewart commented that Article 3.2 of the site plan review regulations gives the Board the authority to waive a site plan review hearing.

3.2 Interpretations: The Planning Board is responsible for interpreting whether or not a Site Plan Review is required for a particular development, change of use or change in site layout. Anytime a property subject to Site Plan Review changes ownership or tenancy, is remodeled, or engages in any of the activities outlined in paragraph 3.1, the landowner shall contact the Planning Board to see if Site Plan Review is required.

Mr. Stewart stated that he is here to ask relief for Mr. Long to be able to make a small change in the appearance of the building without going through a full site plan review hearing.

Mr. Weiler commented that he would like to take the opportunity that the site plan review hearing would provide to discuss a sodium vapor flood light that was not on the original site plan review and against past and present regulations because of the safety issues for passing vehicles.

Mr. Stewart commented that he is sure that if there was a letter that stated what Mr. Long needs to do to be in compliance with the zoning that Mr. Long would be willing to do so in order to avoid the time and expense of a full site plan review hearing.

Mr. Geddes commented that he is left with the feeling that there is some unfinished business between the Planning Board and Mr. Long. He commented that he did not see a letter but has heard that the code enforcement officer was going to be dispatched to that site. Mr. Geddes stated that the Board should not be considering this proposal for the porch if there is an open issue.

Mr. Weiler clarified that the open issue is a separate item. Right now the Board needs to discuss and decide whether or not a 900 sq. ft. addition needs a site plan review hearing.

Mr. Stewart asked the Board members to keep in mind that this is a seasonal, open addition, not an enclosed space.

Mr. Weiler explained that in land use, the Board must consider the footprint of the building when considering an addition. A deck is not an addition but if there is a roof over it, it is not a deck and must be regulated.

Mr. Williams commented that if 900 sq. ft. is going to be added, the Board needs to know what it is going to look like, how will it be lighted, and how will it be used. If it is going to be used for displays, it will be of interest to find those things out.

Mr. McWilliams commented that if this porch is proposed to be on the side toward Route 103, there will have to be a whole row of parking eliminated. The Board needs to know where those parking spaces will be moved to.

Mr. Williams commented that the logistics of the parking will have to change, parallel or angle, locations and sizes. He clarified that there is 66 ft. between the building and the property line; therefore the remaining spaces after the porch and plantings are in place will be insufficient for the two rows of existing parking. Sixty-six feet is the minimum that is required to maneuver nose-in parking, therefore the parking scheme will need to be redesigned to accommodate the number of parking spaces needed for the proposed use.

Mr. Vannatta commented that it appears that there are multiple issues that need to be addressed as a result of this proposed addition.

Mr. Geddes commented that if there is an outstanding issue with Mr. Long regarding retail use, the Planning Board should not even be considering the proposed addition of a porch.

Mr. Stewart read the Zoning Board of Adjustment's Notice of Decision dated December 8, 1997:

*The Board of Adjustment at its meeting of December 8, 1997, after a properly noticed public meeting, voted to **grant** your request for Special Exception, in accordance with section 4.3.12 of the Newbury Zoning Ordinances, to permit the use of property for a function hall, which will accommodate family gatherings, civic, business, community, and municipal organizations for group activities and catered events.*

Please be advised that under RSA 677:2, any person or party to the action or proceeding of the Board of Adjustment may ask for rehearing within twenty (20) days of the date of this notice of decision. Said motion must be set forth in detail all grounds on which you base your appeal.

Mr. Stewart explained that approval was for a function hall because the retail business was a permitted use per the Zoning Board of Adjustment minutes of December 8, 1997.

... 'Chair Bensley continued stating the Zoning Board of Adjustment agrees with the Planning Board that an auction hall is a retail business, which is already a permitted use in the Residential/Business District and therefore does not need to be addressed as a Special Exception.'...

Mr. Weiler commented that if the Board decides if a site plan review hearing is required, all issues can be addressed including those that were raised as concerns by the Board this evening, such as lighting, set-up, parking, etc.

Mr. Dezotell made a motion that the a Site Plan Review Hearing should be required as a result of the proposed addition exceeding 500 sq. ft. Mr. Williams seconded the motion. All in favor.

Without being specific, Mr. Stewart commented that it is his hope that Mr. Long is given the same consideration as other businesses in Town.

Mr. Weiler advised Mr. Stewart that he should review the Site Plan Review requirements and address all of the items on the checklist, not just those that were discussed this evening.

CASE: 1993-007 – Site Plan Review – Sunapee Outfitters, LLC – Property Owned by Mary Webb at 104 Route 103 – Newbury Tax Map 50-531-080.

Jim Dudley of Sunapee Outfitters, LLC is waiting for a determination from the Board whether or not he is legally allowed to lease a piece of privately owned waterfront property for use in a retail business.

Mr. Weiler stated that he had a long talk with Bart Mayer, Town Counsel and Ken McWilliams, Advisor. Basically, the proposed use of the shorefront property would be a funnel use which is prohibited. Mr. Weiler explained the concept of funneling to Mr. Dudley. The Town Counsel was specifically concerned about the lease agreement and what the conditions would be if he were to submit a Site Plan Review that involved the shorefront property. The Board would have to get copies of all lease documents and send them to Counsel to review to make sure the use does not fall under the definition of funneling.

Mr. McWilliams stated that the Sweet Patch property is separate from the shoreland lot. The business on that site is not a problem. It is the shoreland lot that makes a problem. He explained that the shoreland district is an overlay district. Section 7.7 of the Zoning Ordinance talks about the access rights to the shoreland which says you cannot use a privately owned shoreland lot to gain access to shoreland for public use.

Mr. Dudley commented that he would like to provide access for the customers to the water to try out demonstration kayaks and/or canoes but will try to pursue that somewhere else.

Mr. Vannatta suggested that Mr. Dudley ought to research Bradford's zoning regulations. If Bradford does not have a funneling provision in their regulations, perhaps something could be worked out with the Appleseed or another landowner along the shore of the Bradford side of Lake Todd.

Mr. Geddes asked if there was anything in the zoning ordinance that would prevent Mr. Dudley from loading up a rack of kayaks onto a truck and launching them from a public access such as the State Beach or Blodgett Landing.

Mr. McWilliams stated that that is beyond this provision.

Mr. Dudley asked if everything else with the proposal acceptable to the Board at the 104 Route 103 site, formerly the Sweet Patch Bakery.

Mr. Weiler informed the Board that according to the approved site plan, there were two uses granted. One use was for a Bakery/Restaurant use and the other was for a Retail use with adequate parking.

Mr. Weiler asked if there would be any parking spaces taken up for advertising or kayak display.

Mr. Dudley stated no and explained that there may be two or three kayaks on the grass or on a rack out front on one of the grassy areas. He informed the Board that one of the

supplementary activities of the business will be to sell coffee and snacks with casual seating on the deck.

Sense of the Board – The proposed change as presented from the Sweet Patch Bakery to Sunapee Outfitters, LLC does not require a site plan review hearing.

Mr. Dezotell asked if the land owner of the shorefront property could allow the Sunapee Outfitters, LLC to use the shorefront property without making a part of the lease agreement but as guests.

Mr. McWilliams cautioned that the Townspeople passed the regulation stating that they do not want funneling. The users need to be real careful of the zoning ordinance.

MINUTES

The Board reviewed the minutes of July 17, 2007 and made corrections.

Mr. Dezotell made a motion to accept the minutes of July 17, 2007 as corrected. Mr. Geddes seconded the motion. All in favor.

Mr. Dezotell made a motion to adjourn. Mr. Geddes seconded the motion. All in favor.
Meeting adjourned at 9:15 p.m.

Respectfully submitted,

Linda Plunkett
Recording Secretary