

**MINUTES OF PUBLIC HEARING
HELD BY THE PLANNING AND ZONING COMMISSION
MAY 7, 2012**

ROLL CALL:

Members Present: Joseph Diminico, Chairman
Eric Prause
Horace Brown (Acting Secretary)

Alternates: Susan Shanbaum (sitting)

Absent: Kevin Dougan, Vice Chairman
Andy Kidd, Secretary
Anthony Petrone
John Chaput

Also Present: Mark Pellegrini, Director of Planning
Renata Bertotti, Senior Planner
Matthew Bordeaux, Environmental Planner
and Wetlands Agent
Ginger MacHattie, Recording Secretary

The Chairman opened the Public Hearing at 7:08 p.m. The Acting Secretary read the legal notice for the application when the call was made.

TOWN OF MANCHESTER PLANNING AND ZONING COMMISSION – for a zone change from General Business (GB), Design Overlay and Residence B (RB) zones to Form-Based zone (FBZ) in the Broad Street redevelopment area – Zoning Map Amendment (2012-026)

Ms. Bertotti spoke on behalf of the Town of Manchester and explained the application is to add a Form-Based zone to the zoning map. The Form-Based zone was adopted in March of this year and was effective March 30, 2012. Ms. Bertotti displayed a map showing the area to which the regulations will apply. The Form-Based zone encompasses the area from Middle Turnpike West south to Center Street. The street in the middle of the zoning district is Broad Street and the street running east to west is Green Manor Boulevard. She explained the red color represents the existing general business zone. The brown color represents the Residence B zone. The area to be included with the amendment is shown inside the thick blue line.

Ms. Bertotti explained the adoption of the map will establish the area to which the regulations will apply. She said the Planning Department received some questions about uses and existing buildings. She explained this amendment will allow some uses that the General Business zone does not allow. Those include residential uses, parking structures, surface parking lots, farm stands, convention centers, and the like.

Ms. Bertotti said the second item that will be applied in the Form-Base zone is a ground floor limitation, which means along Broad Street, Green Manor Boulevard, and Middle Turnpike West, there will be an area extending 40 feet from the front property line into the properties in

which certain uses are preferred on the ground floor. All areas will be designated mixed use. They will be allowed to have commercial uses, but if an applicant would like to have a residential use, it will have to be located behind the first 40 feet of the property or above the first floor.

Ms. Bertotti said the third item is non-conforming uses. There are some uses that are existing in this district that are not allowed in the Form-Based zone. Those include drive through restaurants, light industrial uses, auto service stations, and the like. She said the uses that exist as of March 30, 2012 will continue to exist and be allowed to expand and intensify in use because they will be considered legal non-conforming. New uses coming into this district of this nature will not be allowed.

Ms. Bertotti explained there are certain provisions in the regulations that require a large percentage of lot frontage to be occupied by a building which is intended to create a street wall. She said this district is intended to be a pedestrian friendly, compact development. Additionally, the buildings are required to be close to the street. These two requirements will result in some of the existing buildings becoming non-conforming. When an existing building becomes non-conforming, it will be allowed to continue to exist and be modified with additions or detached structures. The additions and detached structures will have to meet the new Form-Based zoning regulations. Ms. Bertotti showed examples of the types of additions that are permitted and those that are not permitted.

Chairman Diminico asked if any member of the public wished to comment either in favor of or in opposition to this application.

Mr. Willie DeCormier, a partner in Frank's Auto, 285 Broad Street, noted that his building use will be limited as light industrial is no longer allowed. He asked what would happen if he wants to rent out his building for light industrial use.

Mr. Pellegrini explained that with the new zoning regulations, all existing commercial uses will continue to be permitted and residential use will be allowed as well. The regulations being considered do not allow light industrial or manufacturing use in the zone.

Mr. DeCormier said this is an important matter to him because it is an existing building and if he is not going to be able to use it for anything other than the car business that may become a problem for him.

Mr. Pellegrini explained the change in the zoning regulations will not limit the use of the building at 285 Broad Street to only auto sales. It allows any uses permitted in the new zoning district of which there are many. He said light industrial is not one of the permitted uses.

Mr. Diminico explained the Planning and Zoning Commission held several workshops and two public hearings. Any of those meetings would have been an appropriate time to address the questions about entitled uses. The Commission was very sensitive to all the needs of property owners and merchants. One of the big issues that came up was automotive uses, he said.

In response to a question from Mr. Diminico, Mr. Pellegrini said in the present zone (before the change to Form-Based zoning) light industrial use is allowed with a special exception.

Mr. Diminico noted that uses in this area have been expanded tremendously, including the addition of residential uses. He said the idea is to be as least restrictive as possible. It just so happens that automotive use is non-conforming. The opportunity for light industrial will not be allowed.

Mr. DeCormier said that does not sound very accommodating especially since this building has been there since 1961.

Mr. DeCormier had specific questions about the Form-Based zoning and Mr. Pellegrini offered to meet with him privately regarding his questions.

Attorney Stephen Penny, a Manchester resident, said he hopes the Planning and Zoning Commission has not over reached by applying the Form-Based zone to as many properties as proposed. The Commission may have determined this is necessary, but he said he wants to point out that to the extent the Commission insists on applying a new zone district classification to existing properties, it will meet the kind of resistance seen from Mr. DeCormier tonight. Despite the fact that ample notice has been given and every appropriate effort has been made to inform the public, as a practical matter, the implications of this zone change will not become apparent until property owners decide there is something they wish to do with their property only to find out it is not permitted under the new zoning classification. If Mr. DeCormier was to change the use of the property from automotive to something else, he would not be able to revert back to an automotive use. Attorney Penny said he hopes the Commission will consider not extending the Form-Based zoning as broadly to pre-existing properties and uses in this area. He said the Commission will make enemies for this new zoning concept. The Commission has been down this road before. Attorney Penny hopes the Commission has given due consideration to this change and whether it really needs to encompass the entire area proposed.

Mr. Pellegrini explained for those that did not follow the Town's work, the original idea was centered on the town-owned property. As the regulations were developed, the Planning and Zoning Commission, the Redevelopment Agency, and Town staff realized that when the General Business zone regulations are compared with the Form-Based zone regulations, the Form-Based zone regulations provided a broader range and flexibility in uses, a more streamlined application process, and more generous building lot and height coverage ratios. Two informational workshops were held for property owners on Broad Street as well as a public hearing on the regulations themselves. He said there was ample opportunity for people to attend meetings and ask questions. Mr. Pellegrini explained the reason the Form-Based zone is being expanded to the entire redevelopment area is because it does create more value for all properties because of the types and range of uses, as well as the flexibility in the regulations to accommodate certain particular circumstances on certain properties.

Mr. Brown suggested that property owners keep in mind the investment being made beyond the clearing of the back side of the Parkade. A major investment is being made in Broad Street to improve the road, sidewalks, curbs, tree belts, and tree plantings, all to enhance that entire area. He is of the impression that the Town is trying to make an effort to improve the area as a business area of importance to the Town. The Commission believes that the change being made to zoning is related and appropriate to this effort.

Mr. Prause added the Commission and the Redevelopment Agency both see that the zone should be extended to make sure the new area is compatible with the surrounding areas and that any future building on surrounding areas does not detract from the goal of the Parkade site. He thinks it is appropriate for the entire area to be included in this plan.

Mr. Diminico said this is the biggest zone change that has ever been made in Manchester and the Commission tried to be sensitive to all existing uses. Initially, he was steadfast that this should be only for the “dark side” of the Parkade. Existing uses and structures make it difficult to start from scratch. There will be some uses that will not be allowed. Ultimately, the zoning regulations will enhance the properties. He said there are only four members present this evening, so it would be fair to keep the public hearing open.

There was a consensus among the members present to keep the public hearing on this item open.

TOWN OF MANCHESTER PLANNING AND ZONING COMMISSION – for revisions to the Zoning Regulations to transfer the authority to grant special exceptions for auto related uses, gasoline service stations, and bulk oil storage plants from the ZBA to the PZC and to revise special requirements related to these types of uses – Zoning Regulation Amendment (2012-024)

Ms. Bertotti explained this application is to amend the regulations to transfer the authority to grant special exceptions from the Zoning Board of Appeals to the Planning and Zoning Commission. It also revises the special requirements as they apply to auto related uses, such as sales of new and used vehicles, repairs, service stations, gasoline stations, bulk oil storage plants, and car washes. With the revisions, the purpose is to eliminate the need for variances and the goal of the proposal is to increase the efficiency of the process, reduce costs to the applicants in terms of risk, time, application costs, and avoid issues currently existing with the review of Certificates of Location Approval.

Ms. Bertotti said when auto dealers or repairers want to get their dealer or repairer’s license, they must first obtain a Certificate of Location Approval. From 2003 to 2006, the authority alternated between the Planning and Zoning Commission and the Zoning Board of Appeals. In the end, the responsibility will be relegated to the Planning and Zoning Commission for the Town of Manchester. When acting on Certificates of Location Approval, the Planning and Zoning Commission acts as an agent of the State, not in its zoning capacity. The current statutes do not provide any kind of criteria as to what the Commission should be reviewing. Because of this lack of criteria, in their review, the Commission defaults to those provisions relating to the public’s general health, safety, and welfare.

Ms. Bertotti said while the statutes delegate this authority to the Zoning Commission, the Zoning Regulations say that any auto related establishments have to receive a special exception by the Zoning Board of Appeals after a public hearing. This puts dealers and repairers in a difficult situation as they are required to go to two agencies for two approvals which equals a longer application process, more fees, time delays, and the risk of denials. She said to address these inefficiencies, the Planning and Zoning Commission and the Zoning Board of Appeals conducted a workshop and concluded authority should be transferred from the Zoning Board of Appeals to the Planning and Zoning Commission. All applications will be reviewed on the special exception level and evaluated on a case by case basis. The Commission should look at the site design elements and impact requirements when making their decision, she said.

Ms. Bertotti explained the general special exception criteria, Article IV Sec. 20, apply to all special exceptions. The criteria include suitability of location, suitability of structure, neighborhood compatibility, adequate streets, etc. In addition, in Article IV Sec. 5, there is a set of general criteria addressing the proximity of schools, places of worship, libraries, theaters, etc. She said these are the two sets of criteria the Commission should be referencing when reviewing special exceptions for auto related uses.

Ms. Bertotti said if the Commission proceeds with the adoption of this proposal, the authority to review special exceptions for auto related uses will transfer from the Zoning Board of Appeals to the Planning and Zoning Commission. Special requirements will be deleted. A minimum lot area of one-half acre for automobile sales and repair garages will be added as a result of the workshop discussion. Bulk oil storage plants will be deleted from all business zones. This use will be allowed in Industrial zones subject to special exception. Any distinction between new and used automobile sales will be removed.

There was some discussion among Commission members about the minimum lot size for bulk oil storage and it was decided some research should be done on the subject eventually.

Chairman Diminico opened the floor for public comment in favor of or in opposition to this application.

Attorney Stephen Penny, 202 West Center Street, commented in favor of the proposed amendment. It is germane to this discussion to consider what the Commission's role is as an agency of the State in location approval. There is only one case that he is aware of in which the Superior Court addressed the issue of what should be the criteria applied by a local land use agency with respect to a location approval application. In 2003, the Legislature eliminated the criteria that had been set forth from the statute. He read what the judge stated in the case, Glenn vs. New Haven Zoning Board of Appeals. The Zoning Board should consider appropriateness of the location under local zoning regulations, i.e. its suitability. That weighs in favor of all auto related decisions being made by the same agency. He said it makes no sense to have the Zoning Board of Appeals make the same review that the Planning and Zoning Commission would then be required to make. It is also very helpful that the variances are being eliminated.

Ms. Bertotti reported that CRCOG reviewed this application and has responded that there is no apparent conflict with regional efforts.

The Chairman closed the Public Hearing portion of the meeting at 8:40 p.m.

NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.