

**MINUTES OF PUBLIC HEARING
HELD BY THE PLANNING AND ZONING COMMISSION
APRIL 16, 2018**

ROLL CALL:

Members Present: Eric Prause, Chairman
Andy Kidd, Vice Chairman
Michael Stebe, Secretary
Tim Bergin
Jessica Scorso

Alternates: Patrick Kennedy
Jay Stoppelman
Teresa Ike

Also Present: Gary Anderson, Director of Planning
Renata Bertotti, Senior Planner
Matthew Bordeaux, Environmental Planner/
Wetlands Agent
Nancy Martel, Recording Secretary

The Chairman opened the public hearing at 7:04 P.M. The Secretary read the legal notice when the call was made.

TOWN OF MANCHESTER PLANNING & ZONING COMMISSION – To revise Art. I, Sec. 3.04.02.04(F) and Art. I, Sec. 4.08 to add procedures for minor modifications to a previously certified Erosion and Sediment Control Plan. – Zoning Regulation Amendment (2018-023)

Ms. Renata Bertotti, Senior Planner, Planning Department, introduced herself. Staff has identified, due to applicants' submissions, an oversight in the regulations that can be remedied with a minor amendment to the text, she said. This proposal brings the procedure that regulates erosion and sediment control plans into conformance with most of the other plans the Commission reviews, she explained. When there are minor changes to plans that were previously approved, she reported, administrative authority is granted to the Chairman of the Planning Commission and the Director of the Planning Department to approve those minor changes.

Ms. Bertotti reported that the Planning Department proposes to change Art. I, Sec. 3.04.02.03 which addresses the issuance or denial of the erosion and sediment control plans. The amendment reads that, "Minor modifications that are consistent with those described in Art. I, Sec. 4.08 may be approved by the Chairman of the Commission and the Director of the Planning Department. Any change not considered to be a minor change by the Chairman or Director shall be processed as a formal modification of the certified plan and require the approval of the Commission." Otherwise, any minor change to the site that has received an erosion and sediment control plan would have to be presented in front of the entire Commission, she reported.

The second part of the amendment, Ms. Bertotti noted, is located in the General Application Requirements section, under Art. I, Sec. 4.08, and effectively adds erosion and sediment control plans to the section so that it reads, "Minor changes to an approved detailed plan and a previously certified erosion and sediment control plan may be made with the concurrence of the chairman of the Planning and Zoning Commission and the Director of Planning." The amendment is meant to address minor items, Ms. Bertotti said, and it will streamline the process and help with some of the expenses that applicants incur. She described the process as follows: Plans are submitted to the Planning Department and sent to Staff for review. Once Staff is satisfied that all the technical aspects of the applications are met, the zoning regulations are reviewed, and Engineering is satisfied, the plans are then sent to the Chairman and the Director. If they are satisfied, she expressed, the Chairman and the Director can approve the plan. They can also recommend modifications and, if the applicant agrees with the modifications, they can go along; if the applicant dislikes the modifications, they can appear before the entire Commission. She reported that the amendment will apply to the entire Town of Manchester. Ms. Bertotti reported that the Planning Department sent a referral to CRCOG, who found no apparent conflict with neighboring towns.

Mr. Kidd requested confirmation of the statement that this involved an error.

Ms. Bertotti responded that it was not an error; it was a lacking in the regulations. When administrative approval was added for minor changes, she explained, it was done for special exceptions and detailed plans of development, but not for erosion and sediment control plans. At the time, she reported, it did not occur to Staff that there could be instances when the erosion control plan is affected.

Mr. Kidd noted the intent would have been there. Ms. Bertotti agreed.

Mr. Kidd remarked that this would be a consistency issue, which arose recently.

Ms. Bertotti explained that the Town proposed a modification to the Lincoln Center parking lot, which Staff felt could have been done administratively, as it was a minor change. Subsequently, she noted, when CVS came to Planning, it was thought that could have been processed administratively; however, after review, Staff realized that would impact some visual aspect of the site, which would have required a review by the full Commission anyway.

Mr. Kidd concurred that was the right process for the CVS plan.

Ms. Bertotti reported that, if the site was not at that location, and had been in an industrial site on a larger parcel of land, that could have been handled administratively.

Mr. Prause praised the proposed amendment, as there are many minor modifications that could be easily dispatched. He questioned what type of change would not be covered under the amendment, assuming this applies to applications of all types, i.e., Town applications as well as applications from the public.

Ms. Bertotti noted that it would not apply to wetlands or anything determined not to be minor, and any special exceptions trigger a different type of review for all changes. She explained that it is dependent upon what the change is, what the previous approval on the site is for, and what

they are doing, and it has to be reviewed in the context of the approval history on the site and what is proposed.

Mr. Prause remarked that the amendment states that any change not considered to be minor by the Chairman or Director shall be processed as a formal modification of the certified plan and require the approval of the Commission. He questioned changes that the Chair and Director of Planning do not feel would be appropriate and whether there is language to have that appealed. Mr. Prause noted that this is similar to the issue of design reviews on Main Street, where there was not a clear path for issues that were felt to be minor but are not acceptable. He speculated on whether something more explicit needs to be added.

Ms. Bertotti replied that, with the erosion control plan, the review would be more technical in nature than aesthetic, and would be less of a judgment call. There are some specifics under Art. I, Sec. 4.08 that list out practical items that could be included as a minor change, she explained, and if an item is not included there, it would probably trigger a review by the Commission. Ms. Bertotti reported that if grading or storm water management installation exceeded an appropriate level, that would automatically be considered a major change. Erosions controls would not necessarily be in the same situation as the design guideline review process.

Mr. Prause agreed that any erosion and sediment control plan change that is minor, but is felt to have more of an impact, would be major. This may be something to be changed in Art. I, Sec. 4.08, he stated, because 4.08 does call out minor changes such as screening of trash disposal and arrangement of lighting fixtures or benches. If an applicant made such a change, but the Director and Chair believed that was not a good move aesthetically, then that appears to be a dead-end, Mr. Prause said. Perhaps 4.08 should be more explicit regarding the path if there is something that is clearly identified as a minor change, but either the Director or the Chair does not feel it is appropriate, he said.

Mr. Anderson reported that, in that situation, if there was an issue, it would be sent directly to the Commission, which would make more sense than Mr. Anderson and Mr. Prause deciding to deny the application outright.

Mr. Prause said he assumed it could be rationalized that the change does not seem right, and therefore, it is a major change. The issue may be that minor changes have been defined, and there would be no path if an application is not approved. He stated that the issue could be dealt with but may need more clarification.

Mr. Prause said, regarding Art. I, Sec. 3.04.02(F), when trying to clarify the wording for the Director of the Planning Department, it was decided to change the phrase to “Director of Planning” because it was inconsistent throughout the document. The wording in subsection F should be changed to “Director of Planning,” he said.

Mr. Kennedy referred to the language, “Minor modifications may be approved by the Chairman of the Commission and the Director;” it does not say they may be denied by them, he noted.

Mr. Stebe commented that, in 4.08, in the final sentence beginning, “Any change to an approved detailed plan,” the phrase “or erosion and sediment control plan” should be inserted after the words “detailed plan.” He noted that there are two locations within that sentence.

Mr. Kidd said he appreciated the Chair's comment regarding a discrepancy, but he did not believe that belongs in the section, as it seems more general. He questioned whether there are rules and procedures in the regulations to guide the Commission.

Mr. Anderson responded that Staff could review the rules and procedures and can tighten up the wording.

Mr. Stebe recollected, after the special district issues, the Commission did update and amend that process; he questioned whether that was only for the downtown.

Mr. Anderson replied that was only for the Downtown Design Guidelines. There is a special case within the regulation that provides the Chair and the Planning Director the power to interpret the district guidelines, he explained, and the fix was particular to that set of guidelines.

Mr. Prause remarked that the original guidelines provided no path at all referencing the full Commission.

Mr. Stebe referred to the last sentence in Art. I, Sec. 4.08, and questioned whether it would make sense to include wording about situations when a change is not considered minor or there is not a consensus. He explained that there could still be a technically minor change, but one that is not deemed by the Chair and Director to be appropriate or that needs further review to determine whether to refer to the full body.

Ms. Bertotti interjected that the amendment refers to erosion control plans and detailed plans of development, which the Commission looks at as site plans. There is a limited amount of jurisdiction as to how much input the Commission would be allowed to express about where items such as benches should be placed. Ms. Bertotti noted that, if the proposal meets the regulations, the Commission is bound to approve it. This conversation would most likely apply more to administrative minor approvals at the special exception level, where the Commission has greater jurisdiction, she explained.

Mr. Stebe responded that, in that event, he would defer to Town Staff. The spirit of the sentence is that if there is no agreement, it will go before the Commission, he reported.

Mr. Kennedy urged Staff to be cautious about inserting any new verbiage. When language is rewritten, something unintended may be inserted, and the language is okay as it is, in his opinion. He noted that anything that might be appealed would be from the full Commission.

There were no members of the public to speak.

MOTION: Mr. Stebe moved to close the public hearing. Mr. Bergin seconded the motion and all members voted in favor.

The Chairman closed the public hearing at 7:26 P.M.

I certify these minutes were adopted on the following date:

May 7, 2018
Date

Eric Prause, Chairman