

**MINUTES OF PUBLIC HEARING
HELD BY THE PLANNING AND ZONING COMMISSION
FEBRUARY 5, 2018**

ROLL CALL:

Members Present: Eric Prause, Chairman
Andy Kidd, Vice Chairman
Michael Stebe, Secretary
Jessica Scorso (Recused for 2017-111)
Timothy Bergin

Alternate Member Sitting
(For 2017-111 only): Teresa Ike

Alternates: Patrick Kennedy

Absent: Jay Stoppelman

Also Present: Gary Anderson, Director of Planning
Renata Bertotti, Senior Planner
Nancy Martel, Recording Secretary

The Chairman opened the Public Hearing at 7:00 P.M. The Secretary read the legal notice when the call was made.

NORMAN AND LINDA LATULIPPE – For a special exception under Art. III, Sec. 6 and a preliminary plan of development to create one rear lot at 780 Vernon Street. – Special Exception and Preliminary Plan of Development (2017-112)

Mr. Andrew Bushnell, Professional Engineer and Licensed Land Surveyor with Bushnell Associates, introduced himself. Mr. Bushnell reported that the applicants have submitted a preliminary site development plan requesting a special exception for a rear lot for the property at 780 Vernon Street, under Art. III, Sec. 6 of the Town of Manchester Zoning Regulations.

Mr. Bushnell projected the proposal, a three-lot preliminary subdivision plan, noting that Lot 1 and Lot 3 would be full frontage lots meeting all requirements and Lot 2 would be the rear lot. The total acreage is 7.59 acres, owned by the applicants since 1972, and the property has been in the current configuration since it was last subdivided in 1968, according to Mr. Bushnell. Under Art. III, Sec. 6, the rear lot must adhere to the minimum requirements of the Rural Residence (RR) zone, he explained, which are 30,000 sq. ft., 50 ft. front yard, 15 ft. side yard, and 30 ft. rear yard, which it does. Also under Sec. 6, rear lots should have an access strip, which the proposal has, he noted, an existing paved driveway between 830 and 814 Vernon Street, established in the 1968 subdivision. Mr. Bushnell also reported that the length of the driveway meets the requirements.

Mr. Bushnell referred to storm water runoff, noting the proposal would not impose any more impervious area in the access strip, though there would be additional impervious area at the lot and driveway extension. He noted that the slope of the land will enable most of the storm water to run to the rear of the lot, explaining that the soil is sand and gravel and, if necessary, dry well units could be installed. Working with the Health Department, test holes reported very good soil suitable for a septic system, and Lot 2 would be served by a septic system and a drilled well, he reported. There is no public sewer available on Vernon Street, he stated, though there is public water serving the subdivision across the street. The size of Lot 2, he explained, is 44,145 sq. ft.; the RR zone requires 30,000 sq. ft.

After reviewing the sight line from the existing driveway with the Traffic Engineer, Mr. Bushnell reported, it was determined that there is a sufficient sight line. However, he suggested removing an existing oak tree. The Taylor Street intersection is 725 lineal feet away, he reported. Mr. Bushnell projected and explained the property grade, and displayed photos of the property and surrounding homes.

Mr. Bushnell reported that the applicant's opinion is that the application meets the requirements for a rear lot as outlined in Art. III, Sec. 6 of the Manchester Zoning Regulations, of suitability for the intended use, given the character of the district, conservation of the property values, and proximity to intersecting streets. In the plan for the preliminary subdivision plan, the existing driveway would be a common driveway for Lots 2 and 3, he said.

Mr. Stebe referred to the driveway, asked about a notation on slope rights, and questioned if that is in favor of 814 Vernon Street.

Mr. Bushnell explained that is in favor of the Latulippe's slope rights. Those were retained in the 1968 subdivision, he reported.

Mr. Stebe asked for clarification of the road configuration on Vernon Street from Taylor Street, which Mr. Bushnell explained. Mr. Stebe acknowledged the vegetative buffering displayed. He questioned whether the remainder of the property is grass or whether there are more trees in that space.

Mr. Bushnell projected further trees on the property. For the most part, the land has been cleared and was worked as farm fields years ago, he said.

Mr. Kidd questioned whether the driveway is single-wide, and whether it will remain as such, which Mr. Bushnell confirmed. Mr. Kidd stated his concern about multiple properties utilizing the driveway, as traffic may back up on Vernon Street.

Mr. Bushnell noted that there will be only two homes, and reported that surrounding towns limit rear lots to two or three homes to avoid that problem.

Mr. Prause noted Mr. Bushnell's comment that it would not be feasible to extend public water to Lot 2 and Lot 3 eventually. He questioned whether it is, in fact, not possible or not economically feasible.

Mr. Bushnell responded that anything is possible; the rule is that hookup is required if the frontage is within 200 ft. He also said he imagined there may be a pressure issue as well.

Ms. Bertotti stated that the application is for a special exception to create a rear lot with only a preliminary plan. Much of the detail normally seen on a combined detail and preliminary plan application is not shown on this type of plan, she explained. There is one minor and technical comment from the Assistant Town Engineer, she noted, that can be addressed if the Commission approves the special exception. Ms. Bertotti reiterated that the item is a special exception application and, therefore, the Commission is reviewing it for consistency with the neighborhood and for all the special exception criteria under Art. IV, Sec. 20.

Mr. Prause asked, if the preliminary plan of approval were to be adopted and the preliminary plan depicts the eventual three lots, how that would affect a future subdivision.

Ms. Bertotti noted that the preliminary plan is not for a three lot subdivision. The preliminary plan is associated with the special exception for the creation of a rear lot, she explained. In order for the applicant to create a buildable lot, or any other lot in the hypothetical subdivision, a separate application must be submitted for resubdivision, wetlands, and erosion and sedimentation control, according to Ms. Bertotti. There will be applications that must be filed going forward, she said. The application is for a use permit, she noted, and if the Commission approves the creation of the rear lot, the applicant will have a development right to create a rear lot.

Mr. Prause addressed Mr. Bushnell, questioning how the location is suitable for this type of use and how it is compatible with the neighborhood.

Mr. Bushnell reported that the neighborhood is a Rural Residential zone and the property is above the minimum lot square footage requirement. The homes along Vernon Street are all single-family in the RR zone, he explained, and on the opposite side of the street is a Planned Residential Development (PRD) zone with dense housing. He stated that there is a good buffer between Vernon Street and the PRD neighborhood. In addition, he noted, the lot size is larger than it needs to be, but is not so large for a large home that would be out of place.

Mr. Prause questioned whether there are other rear lots in the area.

Mr. Bushnell noted that there is a subdivision across Vernon Street. He stated that there is a house on Vernon Street that sits quite far back due to wetlands. There is a subdivision on West Vernon Street where there are several lots with one common driveway, Mr. Bushnell described.

Mr. Prause spoke about the existing pond adjacent to the property and questioned whether that will be impacted.

Mr. Bushnell explained that the pond would not be impacted.

There were no members of the public to speak.

Ms. Bertotti reported that the Planning Department received written correspondence from Ms. Gail Sloan, which was forwarded to the Commission. She also explained that she received an e-mail from Mr. Mordavsky, a neighbor of the property; on January 26th she also received a fax, both of which have been forwarded to the Commission.

Mr. Kidd stated that he would prefer to hear the correspondence.

Ms. Bertotti reported that on February 1st, she received an e-mail from Ms. Sloan, a resident at 554 Taylor Street. She told the Commission that Ms. Sloan was thankful for the information that had been e-mailed. Ms. Bertotti recounted Ms. Sloan's concerns:

“We have a clean water valve which has run efficiently since the summer of 1981, in existence at the time we purchased our home. It is located near the property line of the proposed subdivision that could be a site for a house and a three-car garage, etc. We also have a brook which runs across the rear-most portion of our property to Taylor Street which is adjacent to the rear of the Latulippes' property and appears to be fed by a body of water on the Latulippes' property. We are hopeful that the Inland Wetlands Commission will protect the waters and well on our property which are adjacent to a proposed new subdivision which may include a house, garage, driveway, septic system, well and underground and/or above ground electrical lines and telephone lines, etc. It is our hope that the efficiency, water pressure and condition of our clean water valve located close to the property line of the newly-proposed lot will not be adversely affected. We are concerned about the possible proximity to our rear property line, our valve and our brook to a large house, garage, driveway, septic system, electric lines above or underground, telephone, cable lines and valve. It is our hope that our request to various departments responsible for the oversight of building lots for the Town of Manchester upon our request will keep us apprised of the changes to the proposed subdivided lot abutting our property line at 554 Taylor Street, including the location of the house, garage, driveway, well, septic system, electrical and telephone cable lines, etc. I would appreciate a response via e-mail since regular posted mail is not efficient for the receipt of timely information. I thank you in advance for your attention to my request. I will e-mail a return response immediately noting receipt of your e-mail to me just as I did earlier today.”

Ms. Bertotti explained that, on February 1st, she received an e-mail:

“Dear Ms. Bertotti: Please be advised my wife and I are the owners of the home located at 830 Vernon Street. Our home is located east and north of the proposed rear lot which is the subject of the special exception preliminary plan of Norman and Linda Latulippe bearing your file No. 2017-112. After reviewing the proposed plan and the applicable zoning and subdivision regulations, we have a few concerns which we hope will be addressed by the Commission and the staff. While I recognize that these concerns may be more appropriately addressed at the time of the re-subdivision applications referenced on the map, we nonetheless want to make these concerns known early on. Initially, we want to make sure that any water runoff created by

improvements to the proposed rear lot not increase the storm water runoff which currently flows on our property. Secondly, with respect to the 36” oak to be removed for site line purposes on the edge of Vernon Street, we would ask that the stump be ground down, chips removed, roots ground in exposed areas, filled with at least 6” of loam and seeded with perennial grass seed. Finally, with respect to the existing bituminous driveway, we would ask that the driveway which currently exists in poor condition be rebuilt and repaved to be put back into good condition. Thank you and the Commission for consideration of these requests. David Mordavsky, 830 Vernon Street.”

Ms. Bertotti then read a handwritten fax dated January 26th, again from Mr. Mordavsky.

“Regarding Latulippe Special Exception preliminary plan. Faxed to you are two pages of documentation/questions on the above topic. Feel free to disseminate as you need to. I apologize for not word processing the two pages but our friendly word processor prevents that from being done. Also, my shaky printing is often affected, as you will see. It was good to meet and talk to Employee No. 2 today. Thank you for all your help. If I need to do more, please tell me what that may be. Questions on special exception plan 2017-112, submitted by Norman and Linda Latulippe.

1. I do not know what Sec. 4.11(e) of the Town of Manchester Subdivision Regulations are.
2. Will water runoff from the improved site No. 2 impact our property?
3. Define what is meant by ‘underground in the proposed utility easement across Lot 2 to service Lots 2 and 3.’
4. The white oak tree to be removed will have stump ground, chips removed to bare ground, roots ground as much as exposed, filled in with good subsoil, topped over with 6” of high quality loam and seeded with perennial grass seed, sloped similar to what exists.
5. The existing bituminous driveway was constructed by Latulippe in the mid-1960s. The depression was filled with tons of debris material from the North End Renewal Project, home-made compactor, dusty until I complained. The road was then oiled with waste motor oil to which I complained to the Department of Environmental Projection who evaluated it and said there was no effect to my well, 327 ft. deep with 110 ft. casing extending 11 ft. from surface which is approximately 75 ft. from the road center. Latulippe home-made paved the existing bituminous surface about 1970s. Currently, it is in poor condition, crackled, weedy, dirt showing. The proposal must include rebuilding and repaving of the existing driveway. It is noted that the driveway is classified as a collector road by the Town.
6. The conceptual house submitted in the application is quite out of the size for the neighborhood with living space of 2,527 sq. ft. and an additional 307 sq. ft. clear over the garage for usable space of 2,829 sq. ft. The living space alone is approximately half to three-quarter of the square footage of the neighborhood houses, negating the garage area.

Respectfully, David and Audrey Mordavsky”

Mr. Stebe followed up on the tree and the proximity to the well. It appears as though it is within 30-40 ft. of the actual well head, he said. He acknowledged that the tree is at the front of another line of trees, and questioned whether the line of trees belongs to the Mordavsky property at 830 Vernon Street, or if it belongs to the applicant.

Mr. Bushnell stated it belongs to 830 Vernon Street.

Mr. Stebe questioned whether there would be a concern regarding grinding the tree, if that would affect the drainage to the well space, to which Mr. Bushnell responded that it would not. Mr. Stebe referred to the projected plan, and asked what direction the drainage goes in from the house.

Mr. Bushnell referred to the map and demonstrated that most will go to the back. He explained that Mr. Mordavsky's property has a large hole in it, which is currently filled with water.

Mr. Stebe asked if the back corner of the proposed lot's topography rises up.

Mr. Bushnell reported that area was a gravel bank years ago and, therefore, rises quite a bit. Utilizing the plan, he explained the water flow.

Mr. Stebe acknowledged that the application is a preliminary plan depicting the location of a proposed residential building. He asked if the Commission have any input, as long as it is within the sizing of the zone.

Ms. Bertotti responded that, when the Commission reviews rear lots, the type of the house and general scaling of the proposed house, the applicant would not necessarily be held to that as though the application were a detailed plan approval. She stated that there is a level of how much departure from the preliminary plan can be. Ms. Bertotti referred to a rear lot that was approved years ago on Hackmatack Street, and a style of house was approved and any significant departure would have brought the application back to the Commission.

Mr. Stebe questioned the square footage of Mr. Latulippe's house.

Mr. Latulippe responded that it is 1,700 sq. ft.

Mr. Stebe surmised that was living space. He referred to notes stating the square footage of the house, but said there is a different number regarding living space.

Mr. Bushnell explained that he utilizes the footprint to determine the compatibility with surrounding homes. He noted that living space can be expanded with room over the garage and a finished basement. As there are many different styles of surrounding homes, there is no set style, he explained.

Mr. Stebe noted that there are homes on Taylor Street that are much larger, but the homes along Vernon Street are in the vicinity of 1,500-1,800 sq. ft. He questioned how great a difference there would be between the proposed home and the existing homes.

Mr. Bushnell noted that colonials add living space with bonus rooms over the garage while maintaining the same footprint.

Mr. Stebe asked for an opinion on whether the location of the homes would enable a very noticeable increase in size of the proposed home.

Mr. Bushnell stated that, in his opinion, the difference would be muted because it will sit behind the trees and houses. Obviously, if the house was up at the road, it would be noticeable, he explained.

Mr. Kidd questioned the expressed concerns regarding the well and water rights, and issues associated with abutters on Taylor Street.

Mr. Bushnell demonstrated the location of the abutter, down gradient. He noted that he has never had a problem with drilling a well on one lot affecting another well. People get concerned about their wells when subdivisions are proposed, he said. Mr. Bushnell pointed out a separate parcel, owned by the Latulippes, which is the location of the wetlands that were of concern.

Mr. Kidd noted that, if the applicant proceeds to a detailed site plan, and if the wetlands come into play, there would be a review of potential impact. He sought confirmation that there will only be one well, and the rest will be city water.

Mr. Bushnell pointed to the lot that will be city water and recognized that the Latulippes' is on a well.

Mr. Prause spoke to the concerns brought up regarding stump grinding, bringing it down to level and reseeding, and questioned if those matters would be dealt with in a detailed plan.

Mr. Bushnell assured Mr. Prause there would be a plan for that.

Mr. Kidd said he appreciated the comment regarding the nature of the driveway. New homes will be built in the rear and there will be more traffic on that driveway, and he stated that, while it is not part of the current application, he suggested addressing that topic.

Special Exception and Preliminary Plan of Development (2017-112)

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

TOWN OF MANCHESTER PLANNING AND ZONING COMMISSION – To revise Art. I, Sec. 2 (Definitions), Art. II, Sec. 15 (Central Business District), and Art. IV, Sec. 23 (Sidewalk Cafes) to add a definition for Seasonal Vestibule and provisions for seasonal vestibules within the Central Business District. – Zoning Regulation Amendment (2018-004)

Mr. Gary Anderson, Director of Planning and Economic Development for the Town of Manchester, introduced himself. Mr. Anderson projected samples of seasonal vestibules for downtown businesses. He noted that the structure would be temporary, added to the front entrance of a building on a seasonal basis. The Planning Department revised the definition in the Commission's packets, he reported, to "A temporary exterior passage, hall, or room adjacent to a building entrance." Mr. Anderson stated that the Town proposes the structures be allowed in the

Central Business District only; perhaps, if demand arises in other districts, that may be added later. The seasonal vestibules would be erected from December 1st through March 31st, he explained, to protect clients and customers from the cold when a single door is opened. In the regulation, the vestibules will only extend three feet into the public sidewalk, and four feet of the public sidewalk must be clear, limiting the amount of space used in the public sidewalks for the structures, he reported. Another addition to the regulation is that the structures must be approved by the Building Department, the Police Department, the Department of Public Works and the Fire Marshal, Mr. Anderson stated, similar to the sidewalk café regulation, to which this would be added. The structures would be subject to the Downtown Architectural Guidelines that are currently in place, requiring any façade changes to be submitted for at least administrative approval from the Chair and Director of Planning, per Art. II, Sec. 15.04.02.

Mr. Anderson explained that the process would be yearly, noting that an applicant would seek a Certificate of Use, again based on the sidewalk café regulation. The process would spark a review by the Zoning Enforcement Officer, Building, Fire and Police, all of whom must sign off on the permit, he said. There are zero setbacks downtown, with little opportunity to allow property owners to construct a permanent structure, he stated. Mr. Anderson reported that the Planning Department had been contacted by downtown restaurant owners who proposed the structures, and Staff's opinion is that this is a relevant, good way to help the businesses downtown in the New England climate.

Mr. Stebe stated that, in reviewing the proposed language changes, he questioned whether the Commission would need to amend Art. IV Sec. 23.02.07. He reported that currently the regulation prohibits any signage on sidewalk cafes.

Mr. Anderson proposed that the signage on the vestibule would be counted as signage on the building, and it may be prudent to change the regulation to allow an additional name plate for the temporary structure.

Mr. Stebe noted that the structure would be allowed up to six square feet, and all the samples projected had some form of a logo or name. He questioned whether the signage would be allowed, as there is no provision in the text currently.

Mr. Anderson observed that the Zoning Enforcement Officer was not in attendance to give an opinion. He expressed his interest in the Commission's opinion, as Planning would be open to including signage on the structure. If the building had a sign on its door, which would be covered by the temporary vestibule, he stated, replicating the name would be fine, in his estimation.

Mr. Stebe pointed to Bistro on Main, which has their menu on the front door, and said he assumed business owners would want to have their menu on the temporary vestibule to attract patrons.

Mr. Anderson surmised that signage on the structures could be addressed in the regulation, though in his opinion, it would be reasonable to replicate the signage on the current exterior of the building.

Ms. Scorso questioned whether there should be restrictions or conditions on the materials used.

Mr. Anderson replied that was not addressed in the zoning regulations, and assumed that would be an issue with the Fire Marshal and Building Department.

Ms. Scorso contemplated the Commission reviewing the materials used for the temporary vestibules.

Mr. Anderson explained that, working internally with Staff, it was assumed that would be the purview of the Chief Building Official and the Fire Marshal.

Mr. Kidd noted that Mr. Anderson's presentation referred to a level of design review, which relieved his concerns about aesthetics.

Mr. Anderson agreed that the wording was intended to address aesthetics. He explained that the matter could be referred back to the full Commission.

Mr. Bergin questioned the three-foot depth on the sidewalk and whether there are concerns regarding ADA compliance.

Mr. Anderson replied that is addressed in the requirements and, after review with the Chief Building Official, the restriction would allow enough clearance on the public sidewalk, but also provide flexibility to the business owners.

Mr. Kennedy referred to the new Art. IV Sec. 23.05.02, the last sentence, in which the existing language states, "The Zoning Officer may deny a permit to operate a sidewalk café if the operator has a history of violations of any of the requirements governing sidewalk cafes," etc. He noted that the language basically implies that the Zoning Officer cannot do that for seasonal vestibules, and suggested "The Zoning Officer may deny a permit to operate a sidewalk café or seasonal vestibule if the operator has a history of violations of any of the requirements governing sidewalk cafes or seasonal vestibules."

Mr. Kennedy commented that the new 23.05.03 states "If the Zoning Officer finds that the provisions of the sidewalk café regulations are not being met by the operator..." and suggested stating "sidewalk café and seasonal vestibules" or "provisions of the regulations." He discouraged stating "sidewalk café" by itself once the change is made.

Mr. Stebe questioned how the structures would be attached; i.e., to the buildings themselves or to anchor points on the sidewalk. In the section defining cafes, he reported, the regulation states that nothing can be anchored to the sidewalk. He assumed that, for structural soundness, there must be some ability to anchor the outside corners. The regulation does not explicitly state that sidewalk anchor points cannot be utilized, but it does state that anchor points cannot be used with outdoor cafes, Mr. Stebe reported.

Mr. Anderson said he could not speak to that subject. He noted that there may be members of the public to speak who might be able to respond to that question.

Mr. Stebe noted that, as written, the regulation has no verbiage stating that the vestibule could not be anchored to the sidewalk. He said he assumed the Town would be interested in caps to the anchors when the vestibules are not used.

Mr. Prause questioned the four-foot requirement and the three-foot requirement. According to the regulations, he stated, there must be four feet to the curb for a sidewalk, he noted, but there must be a three-foot maximum from the lot line, though Mr. Anderson stated some building architecture may help with that.

Mr. Anderson explained that some buildings downtown have an indentation at the front doors, which would provide more usable space, and the vestibule may only need to be a foot or two out from the building.

Mr. Prause said he assumed the lot line would be considered to be the front façade of the building.

Mr. Anderson noted that would depend upon the building. In most cases downtown, the lot line would be the part of the building right up to the sidewalk. He informed Mr. Prause that, if his question refers to whether the public rights of way extend into the indentations, they do not.

Mr. Prause opened the hearing to the public.

Mr. Bob Sulick, 417 South Main Street, owner of Mulberry Street, introduced himself. Mr. Sulick reported that he had met with Mr. Anderson in the fall, as a member of the Downtown Special Services Committee. He had explained to Mr. Anderson that one of the ongoing problems for his business is that, when the front door is opened in the winter, the cold air blasts the bar area. Mr. Sulick thanked Mr. Anderson for his work at the downtown property owners' request, and remarked that there is a tremendous relationship with Planning Staff, enabling the small businesses in the downtown area to be more productive. The infrastructure in the downtown area is outdated, he noted.

Mr. Sulick reported that the reason he moved his business from South Main Street to downtown 10 years ago was because of the attractive architecture, and explained that he wants to maintain that look. He explained that their proposed vestibule would be simple, almost as if a curtain was dropped from the awning. To answer the question about anchoring the temporary vestibule, he referred to the Road Race Committee, which has large bronze/brass implants in the ground with a screw top, which is flush, he described, though theirs would be a much smaller version, as small as an inch across. Mr. Sulick reported that the structure would go into the ground during the time the vestibule was standing, attached with a screw and hook; when the vestibule is not being utilized, a cap would be mounted flush with the ground. He referred to other towns with vibrant districts and noted that the vestibules are common. He reported that his business had an approximate three-foot indentation, which would make the vestibule a much larger area. Mr. Sulick reiterated that handicapped access is critical and must exist.

Mr. Anderson explained that the proposal was brought before the Downtown Special Services District Board of Commissioners, which was very supportive of the idea.

Mr. Kidd said he appreciated the discussion on the attachment of the vestibules, though it appears to be uncertain. He questioned whether the aspect of attachment would need to be reconciled before the Commission moves to approve the amendment.

Mr. Anderson replied that the Commission could address the matter specifically in the regulations if it were deemed necessary. He stated his opinion that the matter would be handled within the regulation because there must be signoffs by the responsible entities, including the Police Department and the Department of Public Works. Each installation could be different, he surmised. His opinion was that it is not necessary to add the attachment to the zoning piece of the regulation, but if the Commission would be more comfortable, that can be reviewed.

Mr. Kidd said he supposed that, if there was a mechanism in place for business owners to come before the necessary Town departments to explain the requirements for the temporary vestibule, there should be no reason to change the regulation.

Town of Manchester Planning and Zoning Commission

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

The Chairman closed the public hearing at 8:24 P.M.

I certify these minutes were adopted on the following date:

February 21, 2018 _____
Date

Eric Prause, Chairman

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