

**MINUTES OF BUSINESS MEETING
HELD BY THE PLANNING AND ZONING COMMISSION
APRIL 20, 2020**

Meeting Conducted via Zoom

ROLL CALL:

Members Present: Eric Prause, Chairman
Patrick Kennedy, Vice-Chairman
Michael Stebe, Secretary
Jessica Scorso
Jessica Poland

Alternates: Julian Stoppelman
Teresa Ike
Bonnie Potocki

Also Present: Gary Anderson, Director of Planning
Megan Pilla, Senior Planner
David Laiuppa, Environmental
Planner/Wetlands Agent
Nancy Martel, Recording Secretary

The Chairman opened the Business Meeting at 8:08 P.M. The Secretary read the legal notice when the call was made.

SAM MALONE BREWING CO., INC. – Request a special exception under Art. II, Sec. 16.15.02 (m) for outdoor entertainment on the back (east) patio at 165 Adams Street. – Special Exception (2020-011)

Mr. Kennedy acknowledged that there was one negative comment, though in his opinion this will not be a problem given the surrounding buildings.

Mr. Stebe echoed Mr. Kennedy's opinion. However, he added that there should be an addition to the motion that the live music is limited to the speakers described in the application. The speakers would be well within the margin of noise for the neighborhood, Mr. Stebe commented.

At this point, Mr. Prause reported, there does not seem to be an issue with this application.

Special Exception (2020-011)

MOTION: Mr. Kennedy moved to approve the special exception under Art. II, Sec. 16.15.02 (m) for outdoor entertainment on the back (east) patio at 165 Adams Street, with the condition that the applicant be limited to the three speakers shown on the application. Ms. Poland seconded the motion and all members voted in favor.

The reason for the approval is that the proposed activity meets the special exception criteria in Art. IV, Sec. 20.

NICHOLAS TOTH – Zoning regulation amendment at Art II, Sec. 16.09 regarding automobile parking in the Industrial zone. – Zoning Regulation Amendment (2020-016)

Mr. Kennedy stated that he was ambivalent about the change in wording.

Mr. Prause remarked that there is not a good definition of “administratively.”

Mr. Stebe added that, in the final sentence in the second paragraph, “property ownership” should be added to state, “Any change in property ownership...

Mr. Prause sought confirmation that Mr. Stebe seeks to add “property ownership,” in front of the word “tenancy.” Mr. Stebe confirmed.

Zoning Regulation Amendment (2020-016)

MOTION: Mr. Kennedy moved to approve the zoning regulation amendment to revise Art. II, Sec. 16.09 regarding automobile parking in the Industrial zone to allow administrative approval of a shared parking agreement between two or more uses on the same lot when those uses have different, non-competing hours of operation, with the following modifications:

1. That the phrase “may be approved administratively” be changed to “may be approved by Town Staff;” and
2. That the phrase “any change in; tenancy, use, or operations” be changed to “any change in; property ownership, tenancy, use or operations.”

Mr. Stebe seconded the motion and all members voted in favor.

The reason for the approval is that the proposed zoning regulation amendment is consistent with the Plan of Conservation and Development Growth Management Principle #1, Objective D3, which states in the Plan Summary Matrix on page 73: “Reduce impervious surfaces and treat and control storm water through low-impact alternatives to traditional control and treatment and, revising public improvement standards and reducing minimum surface parking requirements.” Allowing shared parking reduces minimum surface parking requirements on lots that are occupied by multiple uses. This will effectively reduce the amount of impervious surfaces necessary in the Industrial zone.

The zoning regulation amendment will be effective on May 4, 2020.

Mr. Prause expressed his concern for the future, i.e., businesses expanding, adding shifts, etc. It was his opinion that the situation bears monitoring as time goes on.

TOWN OF MANCHESTER PUBLIC WORKS DEPARTMENT – To install three water fountains with lights and one submersible pond aerator in Center Springs Pond at 99 Edgerton Street. – Inland Wetlands Permit – Determination of Significance (2020-013); Inland Wetlands Permit (2020-013); Flood Plain Permit (2020-014)

Mr. Jeff LaMalva, Town Engineer, introduced himself. He explained that the application is to install fountains and an aerator in Center Springs Pond.

Mr. LaMalva displayed a plan of the Center Springs Pond area. He noted that the primary purpose of the project is to provide aeration to the pond to combat algae bloom, which occurs during the summer months. According to Mr. LaMalva, in 2014 the Town hired Kenneth Wagner, an expert in water management and stream ecology, to provide recommendations for the management of Center Springs Pond. His report identified measures to minimize algae growth, including pond dredging, which was completed last year, and pond aeration, which this project will accomplish. The secondary purpose is to provide an aesthetic feature for the park. Mr. LaMalva noted that the pond is the focal point of the park and the installation of fountains with LED lighting will provide a unique feature and opportunity.

Mr. LaMalva reported that the scope of work is fairly simple. There are to be three floatable fountains that are tethered to the bottom of the pond with cinder blocks. They will be installed in the middle of the pond, he stated, and are self-contained units that include suction and discharge pumps and lights. One submersible pond aerator will also be installed at the bottom of the pond. Both the fountains and aerator were sized appropriately for the pond volume by the proposed vendor.

Electricity for the fountains and aerator will come from a control panel to be installed in the lower portion of the existing boathouse near the northern shoreline, reported Mr. LaMalva. Waterproof cables will run along the bottom of the pond and will be anchored to the bottom. He reported that the only portion of this project that will require any excavation will be a small distance between the garage bay of the boathouse and the pond. There will be silt fence along the edge of the pond, he added.

Mr. LaMalva stated that the work is to be located within the 100 year floodplain, although the proposed improvements will not have an impact downstream. He displayed photos of the fountains and the aerator.

It is anticipated that the fountains and the aerator will be operated 24 hours a day, 7 days per week during the spring to fall months, according to Mr. LaMalva. They will not operate in the winter months. He reported the approximate cost of the project to be \$75,000, and the scheduled installation is this June.

Mr. Prause questioned the look of the unit when floating on the water, as well as the track of the power to the electrical line, which Mr. LaMalva explained.

Ms. Pilla noted that there are no outstanding Staff comments. During Staff review, there were questions which were sufficiently answered by the Engineering Department.

Mr. Prause asked about the impact to the wetlands area. He also questioned whether the addition of the fountains will impact the value of the watercourse or impact any habitat.

Mr. LaMalva noted that there should be no impact to the wetlands and reiterated where the only excavation will be done. He also explained that there will be no direct impact to habitat, as it will be simply aeration without any chemicals. Making the pond healthy by combatting the

algae may have indirect benefits to the habitat, he added. According to Mr. LaMalva, the vendor is very knowledgeable.

Mr. Prause speculated on whether the pond would be lowered slightly to excavate for the conduit, and whether that would have any effect on the habitat.

Mr. LaMalva responded that the water may be lowered very slightly, perhaps by one foot at most. The conduit only needs to be 30” below grade. Any effect to the habitat would be negligible.

Mr. Laiuppa stated that he had spoken with the DEEP for their opinion. He was told that some towns forgo permitting because of the minimal impact. However, DEEP clarified that the wetlands are not just the edge of the water, but also the soil at the bottom of the pond because of its depth. Mr. Laiuppa asked the Engineering Department whether there will be soil disturbance because of the aerators and fountains. He noted that, if there was soil disturbance, that would be disturbance to the wetlands. However, as the fountains will be tethered using cinder blocks as weights, it will not be considered ground disturbance activity.

Mr. Laiuppa, referring to any impact to wildlife, stated that certain spring months would be better for the timing of the project because it would be outside the breeding season for many animals.

Mr. Prause, noting the comment that some towns do not consider a permit due to the minimal impact, asked if Mr. Laiuppa was referring to the water level dropping or installing the fountains.

Mr. Laiuppa clarified that, in many cases, installation of fountains is considered a minimal disturbance activity, especially for floating fountains that aren’t tethered. If there were a housing that were placed in the flood plain, that would have an impact, but because there will be hard-wiring to the existing facility, where the trench will be excavated and refilled at the currently-existing elevation, there should be no change in the flood plain storage capacity.

Mr. Prause questioned how the timeline lines up with the recommendation by Mr. Laiuppa.

Mr. LaMalva reiterated that the installation will be in June of this year.

Inland Wetlands Permit – Determination of Significance (2020-013)

MOTION: Mr. Kennedy moved to find the proposed activity at the above-referenced location as shown on the inland wetlands permit application 2020-013 will not have a significant impact on the wetlands and, therefore, will not require a public hearing. Mr. Stebe seconded the motion and all members voted in favor.

Inland Wetlands Permit (2020-013)

MOTION: Mr. Kennedy moved to approve the inland wetlands permit for regulated activities associated with installation of three fountains with lights and one submersible pond aerator in Center Springs Pond at 99 Edgerton Street. Ms. Scorso seconded the motion and all members voted in favor.

The reason for the approval is that the proposed activity does not disturb the natural or indigenous character of the wetlands by significant impact or major effect.

The approval is valid for 5 years. The work in the regulated area must be completed within one year of commencement.

Flood Plain Permit (2020-014)

MOTION: Mr. Kennedy moved to approve the flood plain permit for the installation of three fountains with lights and one submersible pond aerator in Center Springs Pond at 99 Edgerton Street. Ms. Scorso seconded the motion and all members voted in favor.

TOWN OF MANCHESTER PUBLIC WORKS DEPARTMENT – To request a fee in lieu of construction of the required concrete sidewalk and granite curbing for 540 Keeney Street.

Ms. Pilla reported that the Department of Public Works is requesting that the Commission approve a fee in lieu of construction of the required concrete sidewalk and granite curbing at 540 Keeney Street in accordance with Town Ordinance 279-31(a). The ordinance requires that the owner of any property fronting on public streets who wishes to erect a structure where there was none before must install sidewalks in accordance with the Sidewalk and Curb Plan of the Town as approved by the Planning and Zoning Commission. However, when such installation is not desirable, the Commission may allow and/or require the owner to make a payment to the Town in lieu of installation.

Regarding 540 Keeney Street, the Director of Public Works has officially recommended that the Commission approve such a fee in lieu of construction, according to Ms. Pilla. This area of Keeney Street is within the identified priority location for a future sidewalk project. It is classified as an arterial street in the Sidewalk and Curb Plan and, as such, would be required to have concrete sidewalks and granite curbing. She noted that continuous sections of concrete sidewalks and curbing will likely be installed in the future, including at the subject frontage. However, the existing condition is predominantly bituminous concrete curb in this area and it is not recommended to change a small portion of that to granite at this time, nor is it recommended to install or disconnect a segment of sidewalks at this time.

According to the previously-mentioned ordinance, reported Ms. Pilla, the decision to approve a fee in lieu of construction based on the recommendation of the Director of Public Works rests with the Commission. She noted that the owner of the property has been in communication with the Planning and Engineering Departments as well as the Town Attorney's office. They have been notified that neither sidewalk nor curbing installations, nor payment of the fee in lieu of said installation, will be required until such time as the owner of the property decides to proceed with the construction of a structure on the property. Ms. Pilla stated that the approval is just to allow the fee in lieu of sidewalk installation when the time comes.

Mr. Anderson added that the owner of the property has actually expressed some concern over this, so to be clear for the record, the question of whether or not a fee or the sidewalk itself is required is not under the Commission's discretion and is not what is to be discussed at this meeting. He explained that what is to be discussed is the recommendation of the Director of Public Works for the fee in lieu of the sidewalk construction. The owner and the owner's

attorney have been advised what the additional options are, Mr. Anderson reported. This is an ordinance being followed, which is a strange ordinance, created by the Board of Directors, but the Planning and Zoning Commission is mentioned in it. If they were interested in changing the ordinance, Planning staff has advised them how to do that. He noted that if they were interested in changing the Sidewalk Plan, staff has advised them how to proceed. Mr. Anderson reiterated that the purview of the Commission is limited; it is about the desirability of a fee instead of constructing a small piece of sidewalk at this time.

Mr. Prause sought clarification that the application is coming from the Public Works Department and not an actual applicant, which was confirmed.

Mr. Stebe assumed that, if the Commission acts on the matter or even if it is ignored, nothing will be changed about how an application for construction at this location would go forward. He asked why the Commission must take an action on it if the Director of Public Works is on record with the Department stating that, if the Sidewalk Plan stands as-is and an individual decides to build on that location, Public Works approves of the fee in lieu of sidewalk construction.

Mr. Anderson responded that the owner of the property plans to build a house, and the ordinance is very specific that, if someone is going to build a structure on a property with a recommended sidewalk, they either have to construct that sidewalk or, if the Planning and Zoning Commission allows them or agrees with the Director of Public Works, they could submit a fee in lieu of constructing the sidewalk. Without any action, Mr. Anderson said, the property owner could not move forward with building a house.

Mr. Stebe asked whether the proposed development at that location would come before the Commission, or if it would not come before the Commission and therefore needs to be considered as a separate item. Mr. Anderson replied that it would not come before the Commission.

Mr. Prause asked whether there is similar language in the Subdivision Regulations. Mr. Anderson replied that there is, and the Commission dealt with it on a recent application. The reason why this applies even though it is not a subdivision is that it is in the ordinance.

Mr. Prause acknowledged that it is in the ordinance and that the Commission usually deals with the issue when looking at a subdivision application. The memo distributed to the Commission members calls out the ordinance, stating that a developer is required to install sidewalks unless they are granted approval by the Commission. In his opinion, the Commission has never approached this topic in this manner.

Commenting on the narrow issue brought before the Commission, Mr. Kennedy believed it makes more sense to receive a fee rather than requiring the construction of a sidewalk.

Request to Allow Fee in Lieu of Sidewalk Construction

MOTION: Mr. Kennedy moved to approve the request to allow payment of a fee in lieu of sidewalk construction and granite curbing at 540 Keeney Street. Mr. Stebe seconded the motion and all members voted in favor.

WALTER LANDON – Zone change from Residence A zone to Planned Residential Development zone at 321 Oakland Street (a.k.a. 321-1/2 Oakland Street) and 27 Lillian Drive. – PRD Zone Change & Preliminary Site Development Plan (2020-007) – *Request for 35-day Extension*

MOTION: Mr. Kennedy moved to approve the request for a 35-day extension of time to open the public hearing on application 2020-007 for PRD Zone Change & Preliminary Site Development Plan at the above-referenced address. Mr. Stebe seconded the motion and all members voted in favor.

ADMINISTRATIVE REPORTS:

Ms. Pilla stated that she has one report regarding the Bayberry Crossing subdivision. Final subdivision plans and erosion and sedimentation control plans were submitted and stamped several weeks ago, allowing the developer to obtain an erosion control bond which was posted on April 15, 2020, she reported. This allowed the developer to proceed with site clearing, some of which has already been done, according to Ms. Pilla. A public work bond will not be issued until final documentation is received for the special exception for the pump station; i.e., the developer cannot start construction until that time. Work has been put on hold due to the Covid-19 pandemic. An inspector has been assigned to the project, she stated.

Mr. Laiuppa reported that he had gone to the site and confirmed that there is no activity at this time. The silt fences that are in place on Bayberry Road are still installed properly, though there are some areas where the stakes are down, he stated, as well as some areas along the road where the fence is detached from the stakes. That particular section, he explained, is not at the lower elevation and that area would be less impacted by flow from the site, but it should be repaired. Mr. Laiuppa visited the site and can report to the Engineering Department. Technically, they are not actively working, but the fences should be repaired. It needs to be addressed, but is not an immediate danger at this time, Mr. Laiuppa said.

After a question from Ms. Potocki, Ms. Pilla informed her that the inspector is from the Engineering Department.

Ms. Potocki asked, in terms of the special exception for the pump house, if the developer was given an extension to file the mylars. Mr. Anderson explained that they were given an extension on filing mylars for the subdivision itself, granted by the Planning & Zoning Commission. The special exception has a different timeframe; they do not need to file mylars for that as soon as they did for the subdivision, and the Planning Department is awaiting the final plans for the special exception. He reported that Engineering is awaiting those plans and explained that the developer cannot get a public improvement bond until those special exception plans are finalized, including the pump station.

Ms. Potocki questioned the deadline for filing the special exception.

Mr. Anderson informed her that he did not know the date offhand, but usually it is a couple of years to complete. There is no statutory timeline for that.

APPROVAL OF MINUTES:

March 16, 2020 – Business Meeting

MOTION: Mr. Kennedy moved to approve the minutes with the modification that it be noted that Mr. Stoppelman, Ms. Ike, and Ms. Potocki were asked not to attend the meeting due to social distancing guidelines, and Ms. Poland was also absent due to social distancing. Mr. Stebe seconded the motion and all members voted in favor.

March 16, 2020 – Aquifer Protection Agency Meeting

MOTION: Mr. Kennedy moved to approve the minutes with the modification that it be noted that Mr. Stoppelman, Ms. Ike, and Ms. Potocki were asked not to attend the meeting due to social distancing guidelines, and Ms. Poland was also absent due to social distancing. Mr. Stebe seconded the motion and all members voted in favor.

RECEIPT OF NEW APPLICATIONS

NICHOLAS TOTH – Zoning Regulation Amendment (2020-016) – Zoning regulation amendment at Art. II, Sec. 16.09 regarding automobile parking in the Industrial zone.

MOTION: Mr. Kennedy moved to adjourn the business meeting. Ms. Poland seconded the motion and all members voted in favor.

The Chairman closed the business meeting at 9:15 P.M.

I certify these minutes were adopted on the following date:

May 18, 2020
Date

Eric Prause, Chairman

NOTICE: A DIGITAL RECORDING OF THIS BUSINESS MEETING CAN BE HEARD IN THE PLANNING DEPARTMENT.