

**MINUTES OF BUSINESS MEETING
HELD BY THE PLANNING AND ZONING COMMISSION
JUNE 21, 2021
MEETING HELD VIA ZOOM**

ROLL CALL:

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

Alternate Sitting: Julian Stoppelman

Alternate Members: Teresa Ike

Absent: Bonnie Potocki
Jessica Scorso

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 7:25 P.M.

MIDWEST FOOD BANK NFP INC – Request a special exception per Art. II, Sec. 24.02.01(a) for conversion of a portion of the existing building to warehouse use for a food bank at 579 Middle Turnpike West – Special Exception (2021-043)

Special Exception (2021-043)

MOTION: Mr. Kennedy moved to approve the special exception under Art. II, Sec. 24.02.01(a) for conversion of a portion of the existing building to a warehouse use for a food bank at 579 Middle Turnpike West. 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.

Mr. Prause offered that this is a great location for the use, and it is great to have another food bank helping with our food insecurity problem in Connecticut. He felt it is great to see the positive reuse of the building.

DANIEL SMITH – For new home construction at 547 Birch Mountain Road. – Inland Wetlands Permit – Determination of Significance (2021-049)

Ms. Pilla interjected that this is just a determination of significance for the application. The application will be on a later agenda to be acted upon. She described this as a new system the Planning Department is trying to prevent the time crunch frequently occurring when an inland wetlands application requires a determination of significance. In the event of a public hearing, it would require an additional meeting. There frequently is a time crunch with those applications.

Mr. Daniel Smith introduced himself. Mr. Smith described a single family ranch style home of 2,100 sq. ft. There should be very limited, if any, disturbance to the wetlands area. He stated that he is working with Andrew Bushnell, Project Engineer.

Mr. Laiuppa described the proposed project on Birch Mountain Road. He pointed out Birch Mountain Brook to the west of the project. There is an intermittent water course that is a side stream, not Birch Mountain Brook. That is connected to a wetland further south, and none of the proposed project has any direct impact to either the watercourse or the wetland.

According to Mr. Laiuppa, the 100-ft. upland review area cuts through the front part of the house, so much of the project will be in the upland review area, although none of the project will be in the actual resources. Two points of consideration are the two drain outfalls: There is a footing drain at the northeast corner of the property, and a curtain drain just south of that. Neither of these is close to the wetland or the watercourse, but those will be the points of discharge from the project. Because of their proximity or lack thereof, Mr. Laiuppa does not expect there will be a direct discharge to the resources.

Ms. Pilla pointed out that the erosion and sedimentation control measures are not required to be approved but they are showing that they will utilize those measures.

Mr. Prause questioned the amount of work to be done and whether these proposed elevations are very similar to what the current elevations are. He assumed there will not be much change in the elevation from start to finish of construction.

Mr. Smith assured him that the elevation will not change very much.

Mr. Prause noted that the drain outlets appear to have crushed stone at the ends and rip rap to ensure there will not be a large turbulent flow, with which Mr. Smith agreed. Mr. Prause noted the brook to the west and surmised that the upland review area does not go into this property at all.

Mr. Laiuppa reported that it may partially, but the furthest limit is the intermittent water course and the wetland. Birch Mountain Brook is a well-known perennial water course. It is a point of reference because there are a few properties on Birch Mountain Road where the brook is in the front yard.

Mr. Prause assumed that there will be nothing built in the back yard beyond the porch, which Mr. Smith confirmed.

Inland Wetlands Permit – Determination of Significance (2021-049)

MOTION: Mr. Kennedy moved to find the proposed activity at the above-referenced location as shown on the inland wetlands permit application 2021-049 will not have a significant impact on the wetlands and, therefore, will not require a public hearing. Mr. Stoppelman seconded the motion and all members voted in favor.

ADMINISTRATIVE REPORTS:

Mr. Anderson reported that Mr. Stoppelman and Mr. Stebe attended the most recent CRCOG meeting.

Mr. Stoppelman reported that Mike Zizka presented the changes that the legislature made this year. There were a number of issues that were not clarified and there was sloppy language in the law which will require further changes, administrative interpretation, or court interpretation. Zoning Bill 21-29 has two of the basic features: Statewide parking for apartments of one car for one bedroom or smaller apartments and two cars for any other units. The second issue was allowing accessory housing anywhere where there is residential zoning.

Both were passed, according to Mr. Stoppelman, but there are opt out provisions if the local municipalities and planning and zoning commissions follow certain procedures. Also in the law is that all towns, including those with over 10% of affordable units, must develop an affordable housing plan. In addition, there is a requirement that all members of the Commission must have training every other year and ZEOs must be certified. There was a great deal of discussion about the sloppy language, especially around utilities and service fees. Any fees that are imposed on developers must be kept separate and must be refundable if not spent.

Mr. Stoppelman noted that one item that increased the power of local zoning was to look at traffic studies beyond just trip counts. In general, there is a requirement for planning and zoning commissions to perform a holistic review of their regulations to show that they meet the standards in the bill. One of the items is character, which must be defined in specific terms under the new State law.

Another item Mr. Zizka brought up was the zoning effects of the marijuana bill; basically, any use in general must apply to marijuana with no special exceptions.

Mr. Stebe explained that there was a large amount of information passed along. The inclusive housing language in the State legislation and what that translates into is that Manchester's zoning regulations as a whole must be reviewed to show that Manchester is, as an organization, acting to improve upon equity in housing. The language does not explain how that will be decided. It was very clear that the blanket neighborhood character definition as part of the special exception is essentially null and void unless in a very detailed and specific line item. He thought the PZC could use the downtown special business district guidelines as a very detailed guide as to how to look at neighborhood character for that area because it is spelled out.

Mr. Stebe's opinion is that it is really hard to say that for a general business zone because it is not written out as anything specific. The accessory housing is very interesting. There will be a lot of language cleanup that must happen; i.e., the utility hookups and sewer service fees. It is really unclear as to how that will work because there is language that the utilities are not allowed to charge for an extra hookup on the location on an existing property, even if it is a completely separate system. It does also give the Planning and Zoning Commission more power in that the Commission is now allowed to, and should, look at a traffic study to develop some language which is more than a simple trip study, e.g. how this will really impact intersections.

According to Mr. Stebe, it gives the PZC, as an agency, a fee levying power for additional studies and expert contracting. If the Commission needs to use expert testimony for a wetlands study, it has the power to pass on the cost to the applicant of completing that study. The language is not clear how that money is to be handled regarding a completely separate escrow account for each applicant, or if there can be a pool, or if it can be an interest-bearing checking, or no interest checking. He assumed that the Planning Department will have a very busy year trying to rewrite the zoning regulations, along with the attorneys, and the 2030 Plan of Conservation and Development (POCD). Mr. Stebe stated that the language must be cleaned up by 2023; otherwise, an applicant can claim that the language does not fit the State legislation.

Mr. Stoppelman explained that the point is, unless the Commission were to opt out of the accessory housing units, there cannot be any special requirements for them; i.e., further setbacks, etc.

Mr. Anderson added that Staff will be delving into these issues and will be utilizing the Town Attorney's office. He stated that, regarding the accessory units, which were discussed recently, the Commission seemed comfortable even if the law did not pass. Staff will include those in the regulations. Mr. Anderson felt that the parking requirements comply with most or all of Manchester's regulations. He added that the Affordable Housing Plan is being written into the POCD, which Staff, the Chairman and the Vice-Chairman worked on in an effort to obtain a consultant to work with during the process. An option was included that the document could also serve as an Affordable Housing Plan.

In the last POCD, according to Mr. Anderson, there was a character map and character descriptions, which is a head start as they refer to density, building height, and uses. There is already a meeting scheduled for the recreational marijuana law. He noted that there was conflicting information about when to be prepared for the law. He noted that there is a population limit to the number of retail locations and some type of growing facilities of 1 per 25,000 in population, which would limit Manchester to two facilities.

Mr. Stebe noted that the PowerPoint presentation and the recording will be on the CRCOG site soon.

Mr. Kennedy commented that people with relatively routine wetlands permits will have to come to two meetings. He felt that it is putting an unnecessary burden on people and was nothing the Commission discussed. The one tonight was relatively straight forward when carrying over for two separate meetings for no real reason. Mr. Kennedy stated that the PZC should go back to the

way it has handled wetlands permits in the past. If the Commission does not need a public hearing and has all the information, it can just act on the application. He believed that making people return over and over imposes unnecessary costs on them and was sprung on the Commission at this meeting.

Ms. Pilla commented that the Planning Department is not trying to affect the timeline of the applications in any way. There are a couple of requirements that are different from other types of applications, including that they cannot be accepted at the same meeting that they are acted upon and there has to be a minimum of 14 days between acceptance and that action to allow for any petitions. The goal is not to extend the timeline at all, and Staff is contemplating holding the determination of significance within that 14 day period so that when it comes time for the action, it will still be on the same schedule. Staff did offer this evening's applicant the ability to have Mr. Laiuppa present the application for the determination of significance and the applicant opted to attend the meeting.

Mr. Laiuppa reported that the timing that applications are often presented varies quite a bit in relation to when the meeting is. If an application is received on, for example, a Tuesday before the next meeting, it might allow the applicant enough time to provide the required information for the application to be considered complete and be accepted, and will also give enough information for the Commission to make a determination. As such, the application may be accepted at the same meeting as the determination of significance. It does not allow enough time in the statutory framework for a decision to be made and also does not allow enough time for Staff to comment. The plan is not to extend the window that the application is with Staff, but give an opportunity to get the acceptance and determination made at the same meeting. Mr. Laiuppa noted that it was not utilized for this meeting because the Planning Department just started the process. He noted that there is an application forthcoming which the applicant hoped to have approved tonight, but it was not close to being ready. It will be ready before the next meeting, but there will not be enough time for Staff to review. At the next meeting, the Commission should expect to accept an application and make a determination; a decision will not be made because it would not be falling within the statutory timeframe.

Mr. Anderson added that this was intended to help the applicant make the determination earlier, enabling that piece of the process to be done before full Staff review. The thought was that Mr. Laiuppa could do that in a non-biased way, but if an applicant wanted to attend for the determination, they certainly could. He understood Mr. Kennedy's point as well.

Mr. Anderson requested guidance from the Commission after Mr. Kennedy's comments to evaluate the consensus of the Commission. He asked whether the members want to keep the format of tonight's meeting or not.

Mr. Prause believed that it is important to balance what is convenient for the applicant, though the Commission does not want to get into a situation where there is not enough time to call a public hearing. In his opinion, it is convenient to separate them to make a determination while there is still time to call the public hearing.

Mr. Anderson inquired when in-person meetings will resume. The policy at this point is that the Town is leaving it to the commissions and boards to make that determination. The law has been extended through next spring to allow virtual meetings, though some are anxious to return to in-person. There are benefits of each, but Staff is interested in whether the members feel comfortable.

Mr. Kennedy observed that there is no reason to keep the meetings on Zoom and the Commission should go back to in-person meetings.

Ms. Poland felt that, even though members are all vaccinated, they should be able to have the option to attend virtually; i.e., a hybrid method.

Mr. Anderson added that a hybrid method is possible with the technology that the Information Systems (IS) Department has come up with. The question would be whether the default would be that everyone is present, and an attendee could opt out if they were uncomfortable or not feeling well. Zoom meetings are definitely trickier, but the IS Department is fantastic and figured out a way to accomplish it before it was even required.

Mr. Prause speculated whether the Commission should allow the public an option to participate remotely. He contemplated whether that should be a requirement whether the meeting is held in-person or not.

Ms. Pilla stated that the only way it would not be a requirement is if meetings were totally in person with no virtual component whatsoever. As long as there is an electronic option, the Town would have to provide a location and equipment for someone to use if they were to request it.

Mr. Anderson reiterated that Staff can work out the details. He assumed members are comfortable as long as there is a hybrid option for in-person. If there is time to post the next meeting as an in-person meeting, that will be done; if not, there would be one more Zoom meeting.

RECEIPT OF NEW APPLICATIONS:

There were no new applications received.

MOTION: Mr. Kennedy moved to adjourn. Mr. Stoppelman seconded the motion and all members voted in favor.

The Chairman closed the business meeting at 8:10 P.M.

I certify these minutes were adopted on the following date:

July 7, 2021
_____ Date

_____ Eric Prause, Chairman

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