

**Planning Board Meeting
Council Chambers of the Town Offices
290 Tuttle Road, Cumberland Center
Tuesday, October 16, 2001
7:00 PM**

A. Call to order

The meeting was called to order at 7:00 p.m.

B. Roll Call

Present: Phil Hunt, Martha Porch, Tom Powers, Stephen Sloan, Joseph Taylor, Terry Turner, Beth Howe

Staff: Andy Fillmore, Town Planner, Pam Bosarge, Clerk

C. Minutes of Prior Meetings

Ms. Howe moved to approve the minutes of August 21, 2001 with corrections.

Ms. Porch seconded.

VOTE: Unanimous

D. Consent Calendar

Jim Fisher of Northeast Civil Solutions, on behalf of Chase Custom Homes, requested an extension of the 180 day period of validity of the Planning Board's June 19, 2001 Preliminary Subdivision approval due to the lengthy DEP approval also required for this project.

Mr. Fillmore presented background information as follows: On June 19, 2001 the Planning Board granted Preliminary Subdivision Approval to Chase Custom Homes' Westbranch Subdivision on the Blanchard Road Extension. Jim Fisher of Northeast Civil Solutions was, and continues to be, the applicant's representative.

Section 4.4.D.1 (pg. 12) of the Town of Cumberland Subdivision Ordinance requires that an application for Final Subdivision Approval be submitted within 180 days (approx. 6 months) of the date of Preliminary Subdivision Approval. For Westbranch, this time limit will expire in December 2001.

However, Section 4.4.D.1 (pg. 12) *also* states:

"The 180 day time limit may be extended by the Planning Board, at its discretion, if the subdivider makes a written request for such an extension to the Planning Board prior to the expiration of said 180 day time limit."

On September 25, 2001, in accordance with this section, Jim Fisher submitted a written request to extend the deadline. Mr. Fisher's letter was presented to the Board.

The reason for the extension request was that the State DEP is requiring the applicant to meet the “Common Scheme of Development” guidelines before they can apply for Final Subdivision Approval with the Town. Because the time frame involved with the DEP approval is typically quite long, the applicant was requesting that the Planning Board extend the Preliminary Approval just to be sure it does not lapse.

As a possible alternative to the extension, Mr. Fisher asked if the Planning Board would rather consider granting Final Approval within the original 180 days *conditioned* upon the DEP’s ultimate approval.

Mr. Powers moved to grant an extension to Northeast Civil Solutions for an extension of the Preliminary Subdivision Approval for Westbranch Subdivision to the first regularly scheduled Planning Board meeting subsequent to receiving DEP (Department of Environmental) approval.

Ms. Porch seconded.

VOTE: Unanimous

E. Hearings and Presentations

Public Hearing – Minor Site Plan, to construct a 40’ x 60’ building for the storage of landscaping materials, and to amend previous site plan approval to allow an auto mechanic operation at 7 Corey Road, Tax Assessor Map U07, Lot 3C, William Ward, owner.

Mr. Fillmore presented background information as follows:

I. REQUEST: The applicant is Bill Ward of 128 Longwoods Road, Cumberland. The property is located at 7 Corey Road (off Route 9), Tax Assessor Map U07, Lot 3C, in the HC (Highway Commercial) zone. The applicant is seeking to construct a 40’x60’ metal building to house the continuing landscaping operation. It is proposed to be slab-on-grade with no plumbing.

The applicant is seeking two separate actions by the Planning Board:

- 1) Conduct a pre-application conference for Minor Site Plan Review for the proposed 40’x60’ building.
- 2) Amend 1993 Site Plan Approval to allow an auto mechanic use on the site.

II. DEPARTMENT HEAD REVIEWS:

Andy Fillmore: Based on department head reviews, the Minor Site Plan Application has been deemed **incomplete**. The Planning Board may wish to consider the aforementioned amendment this evening, or to wait until November and combine that with the Site Plan Review when the application is complete.

Barbara McPheters: Comments in separate memo

Adam Ogden: Comments in separate memo

Fire Chief Small: Comments in separate memo

Rescue Chief Bolduc: No comment

Police Chief Charron: No comment

III. DISCUSSION:

The applicant had been hoping to appear for Minor Site Plan Review. However, after closer scrutiny of the application by the department heads, the application was deemed incomplete. The planning department had recommended that the applicant nonetheless appear before the Board for the purposes of a pre-application conference.

ISSUE 1: Pre-Application Conference, Minor Site Plan

The application had been deemed incomplete by the department heads because the following pieces of information appear vague or missing:

- The site survey is not an actual survey, as required by the ordinance. A survey should show the location of existing structures, all utilities, contours or spot elevations, natural features including wetlands and vegetation, all existing features including the well and septic locations, and a note stating where the nearest fire hydrant is located.
- Despite the fact that no new plumbing is proposed, the ordinance requires that the applicant show that the existing water and septic capacity are sufficient for the current and proposed usage.
- The proposed plan should contain more detailed information regarding the exact location of the proposed building, ground floor elevation of the proposed structure, vehicular circulation patterns, parking areas and capacity, dumpsters, hazardous waste storage (e.g. oil, insecticides, fertilizers), etc.
- The narrative describing the proposed use should be significantly expanded to describe all activity on the site, including current activity.
- The applicant should provide a letter from a bank or creditor certifying financial capacity to complete the proposed project.
- The applicant should provide a list of the names and addresses of all property owners within 200' of all property lines.
- Provision should be shown for handling all solid wastes, including hazardous and special wastes, and the location and proposed screening of any on-site collection or storage facilities.
- The Public Works Department has advised that a DOT entrance permit may be required and that the applicant should look into this. DPW has also advised that the DEP may require that the mechanic operation hold "small generator's license" for their handling of oil and other substances.
- The applicant should address all issues raised by the Code Enforcement Officer and the Public Works Director.

ISSUE 2: Amend 1992 Site Plan Approval

Craig Esty was granted Site Plan Approval for a landscaping operation on this site in 1993. At that time the Quonset style building was erected. At some point in the mid-1990s an auto mechanic operation was under-taken in the building.

While this use was not specifically contemplated by the 1993 approval, it is an acceptable use in accordance with the Highway Commercial zone (Section. 204.7.1.2, pg. 45).

This issue has come before the Planning Board because the applicant's tenant, Kenneth Campbell (the operator of the auto mechanic operation) is seeking a State Bureau of Motor Vehicles permit for a "loaner" license plate. This permit would allow him to lend a client a vehicle while the client's vehicle is left at the shop to be repaired. The State, however, requires that the Code Enforcement Officer sign a form that certifies that the mechanic operation is in compliance with all local building codes and land use ordinances. An unsigned copy of this form is attached.

The 1993 approval, findings of fact (Section 206.3.1 – Circulation) stated that "...no provisions for customers have been made." At the time of approval only employees were expected to be on the site. The Code Enforcement Officer and the Planner agree that the Planning Board should review this matter before the Bureau of Motor Vehicles form is signed.

IV. RECOMMENDED ACTION:

The Planning Board was asked to review the information provided by the department heads and by the applicant, and indicate to the applicant the additional materials required for the Board to conduct a complete Minor Site Plan Review.

Given the highly visible location of this site, and the lack of clear information regarding existing and proposed conditions, the Planning Board was asked whether it wished to conduct a Site Walk at the subject property prior to Minor Site Plan Review in November.

VI. EXHIBITS:

1. Memo from Barbara McPheters, Code Enforcement Officer
2. Memo from Adam Ogden, Public Works Director
3. Memo from Dan Small, Fire Chief
- Exhibits Provided by Applicant:
4. Minor Site Plan Application form
5. Narrative Description of project
6. Photocopy of Section 204.7 (Highway Commercial District) of Zoning Ordinance
7. Warranty Deed showing applicant's right, title and interest in subject property
8. Town of Cumberland Tax Map showing location of subject property
9. Site Location Plan, prepared for 1993 Site Plan Review
10. Existing Conditions Plan, prepared as "future conditions plan" for 1993 Site Plan Review
11. Soil Survey prepared by Albert Frick, Associates for 1993 Site Plan Review
12. Plan showing location of proposed structure

13. Manufacturer's cut-sheet for proposed pre-fabricated steel structure
14. Letter from Albert Frick, Associates stating that proposed development will not increase stormwater run-off conditions on the site. This letter is accompanied by Frick's Soil Narrative, prepared for 1993 Site Plan Review.
15. State Bureau of Motor Vehicles "Building Code, Zoning and Land Use Regulatory Ordinance Clearance" form. This is the form that the Code Enforcement Officer has been requested to sign so that the mechanic operation can get a "loaner" license plate permit. It is this issue that has brought the 1993 Site Plan Amendment question before the Planning Board. Craig Esty's 1993 Conditions of Approval and Findings of Fact accompany this exhibit.
16. Survey description of lot. Textual (7/29/94)

Mr. Hunt stated Mr. Ward had recently purchased the property from Craig Esty, and acquired a tenant operating an auto repair business. Mr. Hunt asked for information from Mr. Campbell, the tenant.

Mr. Campbell stated he had applied for a license to have a loaner plate and at that time it was discovered he needed to come to the Planning Board to amend the site plan of 1995.

Mr. Hunt asked if he had customers come to the property.

Mr. Campbell stated yes, customers leave cars.

Mr. Hunt asked if vehicles were left overnight.

Mr. Campbell stated yes sometimes.

Mr. Hunt asked if the vehicles were left inside or outside of the garage, and how many vehicles would be on site.

Mr. Campbell answered vehicles are inside and outside of the garage, and he has approximately 10 cars on site.

Mr. Hunt asked how many parking spaces were at the site.

Mr. Campbell stated thirty.

Mr. Hunt asked if there was an office area for customers to wait, and was there plumbing and a bathroom.

Mr. Campbell stated yes.

Mr. Hunt asked about the septic system.

Mr. Campbell stated there was a holding tank.

Mr. Hunt asked about employees.

Mr. Campbell stated he would have no employees, and there would be no chemicals stored on the property, he has a waste oil furnace, and re-cycles antifreeze.

Mr. Hunt asked about degreasers.

Mr. Campbell stated he has a degreaser tank that is also re-cycled.

Ms. Howe asked if there was any information regarding the holding tank.

Mr. Campbell stated the tank had been pumped two times in the last two years.

Mr. Sloan asked if there would be autos for sale.

Mr. Campbell stated no.

Mr. Sloan asked if there were restroom facilities for customers.

Mr. Campbell stated yes.

Mr. Sloan asked who had pumped the septic holding tank.

Mr. Campbell stated the records indicate Earl Daggett.

Mr. Sloan asked about the size of the holding tank, was it 1,000 gallons, and asked about the waiting area.

Mr. Campbell stated clients can wait in the office.

Mr. Turner asked if the Code Enforcement Office felt the use was permitted under the Ordinance.

Mr. Fillmore stated yes.

Ms. Porch asked if there was a possibility of junk cars accumulating, if owners didn't pick up a vehicle.

Mr. Campbell said the State has a new program for abandoned vehicles. The State would send a registered letter to the last known address of the owner. If there were no response within thirty days the State would issue a title to the garage. This would allow the garage owner to have an abandoned vehicle towed.

Mr. Powers stated the application needed careful consideration.

Mr. Hunt asked the Town Planner how many parking spaces would be standard for this type of operation.

Mr. Fillmore stated from his experience, he thought the thirty existing spaces would be ample.

Mr. Hunt asked if the applicant had a lease and the term.

Mr. Campbell stated he had a three-year lease, which was renewed on June 1, 2001.

Mr. Hunt stated the question for the Board to determine is whether to amend the site plan review to allow an auto repair business. The prior landscaping review had no proposed traffic or parking, the use was primarily storage. The applicant has stated there will be no retail sales, auto painting or storage of vehicles.

Mr. Campbell stated he has a general auto maintenance repair service, sometimes he will replace an engine.

Mr. Hunt stated the Code Enforcement Officer has stated the business as described is an allowable use under the provisions of the Ordinance.

Mr. Sloan stated he would like more information on the septic pumping records as indicated by the Code Enforcement Officer.

Mr. Hunt asked if the Board would like to table, approve or deny the application.

Ms. Howe moved to amend the site plan for 7 Corey Road to allow an auto mechanic operation; Tax Map U07, Lot 3C.
There was no second to Ms. Howe's motion.

Mr. Powers stated he would be more comfortable to see a plan showing use of the entire property.

Ms. Porch agreed she would like to see more information on the entire plan for the parcel.

Mr. Powers moved to table the application to amend the previous site plan at 7 Corey Road; Tax Assessor Map U07, Lot 3C to allow an auto mechanic operation.

Ms. Porch seconded.

VOTE: 6 in favor (Howe, Porch, Hunt,
Powers, Taylor, Turner)
1 opposed (Sloan)

Mr. Hunt stated the sense of the board was that the auto repair business should be an allowable use, there will be no vehicle storage or sales. The septic and traffic issues should be addressed, and the applicant has stated there are no chemicals stored on the property.

Ms. Howe stated the tenant of the building was not responsible for the design of the building, it would be unfair to put the tenant on hold because of the building design.

Mr. Hunt stated the design of the building was not the reason to table the application. Mr. Campbell has had a successful business for two years. The Board is not opposed to the use however, more information is required for review.

Mr. Ward, of 128 Longwoods Road, owner of the 7 Corey Road property, stated he and his wife were originally from the area and had moved back to the greater Portland area. They have acquired several properties in the Longwoods Road area from the railroad tracks to the river. They have bought the little white house and made improvements. Their residence sits back from the road and they have added a berm for privacy from existing agriculture structures. When the Esty property was placed for sale, they purchased it. They have removed in excess of 3,000 yards of fill in a pile, removed five dumpsters of trash and had a Phase I environmental inspection done. Environmental Projects, Inc. of Yarmouth is in the process of cleaning up the site. He is proposing to build a more attractive building, and is getting an estimate on removing the Quonset roof and replacing it with a traditional roof. He stated he had met with Mr. Fillmore and reviewed the setbacks for the proposed second building.

Mr. Taylor asked if the second building would use the same septic system

Mr. Ward stated the intent of the second building is for a licensed landscaping service to store trucks and materials. There are no bathroom facility plans.

Mr. Powers commended Mr. Ward for the improvements to the site and asked why he wanted to build another building.

Mr. Ward stated the property is for investment purposes.

Mr. Powers asked about the nature of use for the proposed building, traffic, site distance and lighting. How would the parking fit with the current tenant? What would the nature of activity be at the new building?

Mr. Ward stated he would be an investor and landlord, he would follow guidelines according to the zoning requirements.

Ms. Porch asked if a septic system could be put on the property.

Mr. Ward did not know.

Mr. Sloan stated he would like to follow the recommendation of the Planner and conduct a site walk at the property.

Mr. Hunt asked if Mr. Ward had an identified tenant.

Mr. Ward stated yes, Horizon landscaping and lawn mowing.

Mr. Hunt stated the consensus was to conduct a site walk.

The Board voted to hold a site walk at 9:00 a.m. on November 3, 2001.

Mr. Powers moved to table the request for minor site plan review to construct a 40' x 60' building for storage of landscaping materials at 7 Corey Road, Tax Assessor Map U07, Lot 3C.

Ms. Porch seconded.

VOTE: Unanimous

Mr. Fillmore asked for direction from the Board for the applicant's submission.

Mr. Hunt stated as-builts for the existing structure.

Mr. Ward stated he had located all of the markers and measured and the building placement is true to the plan.

Mr. Powers stated he would like plans of the finished proposal, showing lighting, security, traffic flow and a finished product.

Ms. Porch asked about traffic flow for the two sites.

3. Public Hearing – To recommend to the Town Council a Zoning Text Change regarding Section 204.8 and 204.8.1.5 of the Zoning Ordinance that would grant the Southern Office Commercial district the same permitted uses allowed in the Northern Office Commercial district; specifically to allow housing for persons 55 years of age or older.

Mr. Hunt stated Mr. Kennedy has a proposal for mixed commercial and residential use on Route One. There are condominiums, Ledgeview and the proposal of Mr. Guidi's development. There has been a history of residential development on Route One. The Council's past preference has been to preserve Route One for commercial development.

Mr. Benson, Town Manager stated the Town Council was in favor of the amendment change. There is need for senior housing in the Town and sewer is now available.

Mr. Peter Kennedy, applicant presented his preliminary sketch plan. The proposal would have 7 or 8 commercial lots abutting Route One. There is no market for commercial lots on the back of the property without visibility. He is proposing an age-restricted community, with a similar proposal in Falmouth. Falmouth is not currently zoned for the proposal. Mr. Kennedy is proposing a mixed development with 16 to 18 age restricted condominiums, and 40 – 10,000 to 15,000 square foot lots for single family detached

homes. Mr. Kennedy stated he is proposing to give the Town 11 acres for future development for a Senior Housing Project.

Ms. Howe stated she is convinced that commercial development is appropriate along Route One. She has questioned elderly housing because of highway noise, but now is willing to accept a zoning change.

Mr. Sloan agreed with the recommended changes.

Mr. Turner agreed with the proposed development, but thought contract zoning should be used instead of rezoning the district.

Ms. Porch stated she would like to see the multiplex and duplex dwellings be age restricted. Previous proposals for senior housing did not include amenities. She felt the Town should have the ability to encourage amenities for Senior Housing.

Ms. Howe asked if the project included almost the entire Southern Office Commercial district.

Mr. Turner said yes.

Ms. Porch asked about the housing committee.

Mr. Benson stated the Cumberland Housing Authority is in charge of the Town's current thirty units at Cumberland Meadows. The Housing Authority has been seeking land for the last two years to build a project for seniors. Also, Route One now has sewer past the property.

Ms. Porch stated she would like the ordinance to give the Planning Board greater review control.

Mr. Kennedy stated he would be happy to provide amenities but would need the density bonus.

Ms. Porch stated she would like senior housing projects to have a community center. In the Northern Office Commercial district multiplex and duplex dwellings for persons 55 years of age and older are allowed but not single family homes. Dwellings for persons 55 years of age or older receive a density bonus allowing 10,000 square feet per dwelling unit.

Mr. Taylor asked about the use of contract zoning.

Mr. Benson stated the Council was under the impression that single-family dwellings were permitted.

Mr. Hunt stated Ms. Porch would like to see an on-site meeting room, and a resident manager on site during business hours. The Planning Board would also like to see walkways and gardens.

Mr. Powers stated the proposal was a terrific idea, and a good use of the land, with the close proximity to Falmouth for shopping, transportation and medical facilities. The recent True Spring Farms condominiums have not been concerned with traffic noise. He didn't feel contract zoning was necessary, as Mr. Kennedy owns almost the entire Southern Office Commercial district.

Mr. Turner voiced concern with the possibility of residential development on Route One instead of commercial.

Mr. Powers stated the proposal development shows commercial development on Route One.

Mr. Kennedy stated he would be preserving the commercial zone back 250'.

Mr. Powers stated the proposal is a win – win the entire district can be developed as a package.

Mr. Powers moved that a draft revision of the zoning amendment allowing age restricted single family dwellings and limit road frontage development to commercial uses in the Southern Office Commercial district be presented to the Planning Board at the November meeting to be reviewed and forwarded to the Council.

Ms. Porch seconded.

VOTE: Unanimous

Mr. Hunt stated the proposal was useful for the area with public water and sewer and the convenience to Falmouth shopping and medical facilities. The only drawback would be noise.

F. Administrative Matters

Mr. Fillmore presented the Board with a memo from Barbara McPheters, Code Enforcement Officer regarding recommended zoning amendments.

The Board stated they would hold a workshop concerning the zoning ordinance.

Mr. Fillmore stated the Route One Design Guidelines were 2/3 complete.

Mr. Turner stated it would be wonderful to have the design guidelines in place for the proposed Route One development.

Mr. Fillmore stated Steve Moriarity, Town Council and he have a draft Fairgrounds Overlay Zone. Mr. Moriarity will be presenting the draft to the Farmers' Club.

Mr. Hunt asked about the proposed school plan.

Mr. Fillmore stated there has been no activity. The school will vote on a referendum in November.

Mr. Hunt stated the letter the Board received regarding M.S.A.D. # 51 was an informational letter that required no action.

Mr. Turner asked what was the projected date for breaking ground.

Mr. Hunt stated they hope to be funded in the Spring.

Mr. Fillmore stated that Mr. Guidi is hoping to have an application in November or December for duplexes at the Cumberland Business Park.

The meeting was adjourned at 8:35 p.m.

A TRUE COPY ATTEST:

Philip C. Hunt, Board Chair

Pam Bosarge, Board Clerk