

Town of Chesterfield, New Hampshire
Chesterfield Planning Board
Meeting Minutes – January 24, 2022
Public Meeting Convened at 7:00 pm
Appointments scheduled to begin at 7:30 pm
In Person at the Town Offices with a Zoom option for the public

PRESENT: Vice Chair Joe Parisi, Joe Brodbine, Maria Bissell, Selectmen's Representative Fran Shippee, Alternate James Hancock, and Pending Alternate Steve Laskowski were present at Town Offices. Roland Vollbehr was present via Zoom. Also present at the meeting was Secretary Beverly Bernard.

CALL TO ORDER:

The meeting of the Chesterfield Planning Board was called to order at 7:01 p.m. Vice Chair Parisi. The meeting was held at Town Offices, McKeon Conference Room. The Chair welcomed Jim Hancock as an Alternate. The Chair asked for members to introduce themselves and note how long they have been on the Planning Board. A quorum was present at the meeting room.

Motion was made by Shippee to allow Vollbehr to join the meeting. There was a second by Brodbine, and no further discussion. All were in favor by roll call. ***Motion passed.***

Absent:

James Corliss, Bob Maibusch

Seat Alternates:

The Vice Chair seated Hancock for Corliss.

Others Present:

Steve Laskowski, Mark Lanoue, Barbara Girs, John Koopmann, Jeff Scott, Bayard Tracy

MINUTES:

The meeting Minutes of January 10, 2022 were considered. **Motion** was made by Brodbine to approve the meeting Minutes of January 10, 2022 with as amended. There was a second to the motion by Bissell. All were in favor by roll call. ***Motion passed.***

OTHER BUSINESS

Parisi asked the members to routinely let the Recording Secretary know if they cannot make a meeting.

ITEMS FOR DISCUSSION

Nine A. LLC Final Approval – condition of approval – Parisi said the Chair followed up and found that the condition for approval was met and was acknowledged with the decision on August 20, 2021, so no further action is needed except for Corliss to sign the appropriate document.

Brodbine asked about joining meetings via Zoom and Parisi said they changed the Rules & Procedures in the past to allow someone to participate via Zoom, but a quorum is required to participate in a physical location while others participate via Zoom. You cannot have complete Zoom meetings. Laskowski said the State recognizes the value of face-to-face meetings. Shippee said if someone is ill, there is no question that

the ill person may participate via Zoom if he or she is up to doing so. The Board briefly discussed a review of Rules & Procedures for possible update since the latest version appears to be May 11, 2020.

ITEMS FOR INFORMATION

Reviewed for Completeness

Nine A. LL Boundary line adjustment - Brickstone – Vollbehr said he has no problem with what they are asking for.

Parisi went through the checklist of items needed for completeness for a Lot Line Adjustment with the members of the Board. It was noted there was no Revision Block on the plan sheet. Bernard made a note to check that and to determine if mylars have been provided.

Motion was by Brodbine schedule a public hearing on February 14, 2022 at 7:30 pm at Town Offices for the application of Brickstone Land Use Consultants, LLC on behalf of Nine A. LLC and Lee A. Pearson for a boundary line adjustment for properties shown at tax map lots 5K-B3.0, 5K-B3.3 and 5K-B3.2. There was a second by Hancock and no further discussion. All were in favor by roll call. ***Motion passed.***

PUBLIC HEARINGS

Review and vote on proposed amendment to the Chesterfield Zoning Ordinances as follow:

To rezone Chesterfield Tax Map 10A, Lot A5 from Office Retail and Services to Commercial/Industrial

Public Hearing opened at 7:30 pm

Discussion: Parisi summarized the genesis of the situation: zoning petition was submitted past the time it should have been in place to get on the ballot in March. As a petition article it could not go on the ballot, but could be proposed by the Planning Board, which is on a different schedule for the ballot. Parisi noted the hearing was continued to allow Mr. Lanoue to have a voice in the discussion. Parisi also noted that should the Planning Board not choose to place the amendment on the ballot the petition could be proposed for Town Meeting in 2023.

Lanoue said over the years the property has been used with outside display and as a commercial property. He said he has had to get a variance for his business, but with a change in zoning he would no longer need a variance. He said the properties around him are zoned commercial. He said he is operating a commercial business. He said it doesn't reduce value of any neighboring property and he believes he has increased value of area properties. Lanoue said he had his personal property, a boat, for sale on the property that someone complained about. He said he feels there has been harassment over the years. He was told to move the boat. He said he is not running an unsightly business and it is an honest business. He spoke about the owner of Manny's appliance business who wanted to move to the vacant building next to J&J and because there were not sufficient parking spaces, they could not use it. He said because of that they left Chesterfield and took their business to Keene. Lanoue said the property is on a state highway and should be zoned commercial.

There was discussion about cars on display inside the front building which formerly housed Manny's. Lanoue said all the cars in the front are personal cars and not for sale and therefore he does not need a site plan review.

Hancock spoke about the personal deed to the property. Hancock said to protect public safety would Lanoue be willing to agree to a limit for number of cars and entrances on the property. Hancock asked are you (Lanoue) willing to give a little bit so that when you are no longer in control of the property, someone else cannot change the land use. Hancock asked Lanoue if he would be willing to have a rider on the deed stipulating there shall be no more additional entrances or expansion of the land. Parisi said we cannot demand that condition but can memorialize it by putting it in the notes.

Parisi said the Planning Board is not going to decide to make a zoning decision here. The Town voters make the decision. Lanoue said he had 50-60 signatures on the petition. Brodbine said if Lanoue wanted to sell the business, a new site plan review would be required, and the Board could deny changes at that time. Brodbine said a site review specifies entrances and how many there can be considering any traffic hazard. He said if a traffic hazard is determined than the site plan could be denied.

Parisi said this is the time is for the applicant (Mr. Lanoue) to be heard and not for discussion. Laskowski asked about the goal of the Planning Board. Parisi said the petition did not meet the deadline for participation on the ballot. He added that today is the last day for meeting the Planning Board deadline.

Bissell said there were 32 signatures on the petition. She referred to the Zoning Board of Adjustment (ZBA) meeting in 2021. She read from that meeting minutes that a condition was that there be no cars for sale within the side setback. Lanoue said he bought an additional piece of property to extend the side setback.

Hancock said Lanoue is doing this to preempt any other difficulties. Laskowski asked if Lanoue is in full compliance. Lanoue said he has a few more cars. Laskowski asked if he is trying to avoid harassment and Lanoue said that is correct. Parisi said the key is a new site plan which is past due. There has been a change to the use of the site when Manny's left. Lanoue asked if he is required to have a new site plan review if Manny's moved out. Parisi said yes, you are required to come before the Planning Board once Manny's space starts to be used, the use is changed and requires a site plan review. Parisi said it is repurposing the space. Lanoue repeated that his cars inside the building are his cars and not for sale. Hancock said simply leaving a rental doesn't make sense to having to do a site plan review for that kind of a change of use.

Bayard Tracy lives on North Shore Road, and he asked the Planning Board if this proposal is consistent with the Master Plan, under section for Vision, page 4, 4th paragraph, regarding economic development. He read from the Master Plan saying the kinds of businesses that should be discouraged includes auto sales. He asked the Planning Board to keep that in mind. Tracy asked how many more cars does Lanoue have on the site?

Barbara Girs suggested the Board is creating a precedent such that if anyone misses a deadline for a petition, you don't have to comply with the regulations. Will we ever be able to say no to others, she asked. Girs asked why does the property need to be commercial? She said she went to the ZBA meeting when the variance approval conditions were agreed upon and Mr. Lanoue has not done anything he agreed to. He has too many cars and there were supposed to be sufficient screening. She said he is not supposed to be washing cars outside. She said the cars in the window are meant to entice people to come in.

Parisi said the purchase of land was to clear the side setback. He said Mr. Lanoue purchased additional 50 feet which moved the property line to allow placement of cars within zoning compliance. He increased the size of the lot in a legal way said Parisi. And it was reflected in the approved site plan.

Jeff Scott said a lot of people in town do not want to see that spot commercial. He suggested Lanoue ask for a change of use, instead of going commercial and that would satisfy a lot of people. Scott said he is concerned with the future. Scott continued asking what if Lanoue sells his business and there could be 600 feet of frontage, which could build retail. Scott said Laskowski said if the town is not careful there will be a neon track along State Route 9. He said he does not recommend the Planning Board move forward with the zoning change.

Hancock said what if there is only one driveway then the lot has significant controlled access. And if two lots were merged there would be two lots, but the Planning Board could restrict the site plan.

John Koopmann spoke. He said he was on the Planning Board when the site plan was crafted. The current use had specific limitations and they are not all in compliance. He said they were specific about using the site for internet sales. Only people coming to pick up cars, not buying them. Now there is a full-blown car dealership there. Koopmann said there were lighting restrictions, screening requirements and these are being violated. He said the neighbors expressed concerns with work on cars being done outside and that is being done. He said there is a blocked access/driveway that goes around the building and the concern by the fire department is access for emergency. That access is to be kept clear. He said regularly there are cars parked across it. He said non-compliance to a site plan is not harassment. He asked the Planning Board members to read the site plan before there is a decision. He said there was a lot of thought that was put into the decision to approve the site plan.

Hancock asked if any enforcement has been done on the site? Parisi said that is up to Code Enforcement. Lanoue said he corrected the understanding of the lighting issue. He said the police department asked him to block that second access temporarily. Shippee asked if anyone spoke to the neighbor. Lanoue said the neighbor lives 600 or so feet away. They were concerned about noise. He noted a lawn tractor makes more noise. He said the state said he is okay washing cars outside. Lanoue said he doesn't work on cars outside. We check fluids to make sure the car is safe to drive. He said they never have worked on cars outside.

Bissell reviewed the variance conditions and read them aloud: no outside cleaning of cars, no junk cars on lot, single layer of cars on eastern side, no cars for sale within front setback. Notice of Allowance was noted. Lanoue acknowledged the condition of approval was no car washing. Lanoue said he never said he would run the business as he did in Brattleboro.

Discussion: Board members were asked for input.

Brodbine: he said he is concerned that the business is non-conforming to the approval, but that is not germane to this discussion. It is a code enforcement issue. The issue is changing the lot to commercial but the site plan conditions still apply. The ZBA granted the variance to operate his business. He stressed non-compliance is a code enforcement issue. He said the motive for change – it takes one step out of the process, having to go the ZBA. He stressed enforcement is the issue. He noted the lot next door is commercial use. He said as far as the future, it is up to this board to make sure what goes there agrees with the Town's interest.

Shippee: she said she thinks the issue would come up again, and maybe it is best to let the voters decide now rather than push it off a year.

Bissell said the property next door is commercial and she understands that opens up more potential for other uses. She referred to needing to come back to the Planning Board for site plan review if there is a change of use. She said the ZBA provided sufficient conditions.

Hancock said we should allow the town's people to have their vote.

Vollbehr said there are procedures to request for change for zoning and this matter doesn't comply with that. He said the procedure was not followed.

Parisi said he goes back to the record and the applicant was adamant that he would not be re-seeking a rezoning of the property. He said he wanted to hear what has changed to make sense for the change request. He said the applicant reviews harassment as the motive and that is not compelling to why the applicant shouldn't be held to what was approved in the past. He added that the timing for a petition was missed and to use the Planning Board as an alternative path requires an extraordinary path and he hasn't heard a compelling reason. The business can operate as is. The petitioners can bring this to the ballot in the next year and he hasn't heard a compelling reason to take this detour in the process for a zoning petition change.

Brodbine said if we take a negative vote that ignores what the whole town thinks. He said if we move forward, the town makes the decision, not the Planning Board. He said it isn't accomplishing anything by delaying for a year.

Hancock said there is a reason for the exception, if we don't vote to allow it, which means the applicant will have to go to the ZBA. Parisi said that isn't true, only a site plan review would be needed. Hancock said on a technicality we could deny it. Parisi said that isn't so. Hancock said the ideal use is to have the community decide.

Shippee noted the Town meeting which will be on March 9th, 2022. Shippee said if the current use changed it would have to go back to the ZBA. Parisi said that is so if the change of use is beyond the scope of the approved Variance. Parisi said it depends on what is the new use and is it consistent with the allowance of the Variance. Parisi said the site plan has segregated parking.

Motion was made by Brodbine to close public input, second by Shippee. All were in favor by roll call. **Motion passed.** Public hearing closed at 8:54 pm.

Motion was made by Brodbine to propose a rezone of Chesterfield Tax Map 10A, Lot A5 from Office Retail and Services to Commercial/Industrial. There was a second by Hancock. Parisi polled the members. Brodbine yes; Vollbehr no; Hancock yes; Bissell yes; Shippee yes; Parisi no, **motion passed** 4 yes to 2 no.

Recess for 5 minutes at 8:55 pm Reconvened at 9 pm.

NEW BUSINESS

Fiore subdivision - Review for completeness – reviewed the checklist for minor site development – Bissell suggested rewording 403.3A A. 2. so as to read, “If applicable, show all existing or proposed structures and all proposed additions thereto.” There was a brief discussion about an easement on the lot.

Motion was made by Shippee go to public hearing for the application of Jessamyn Fiore for a Minor Subdivision for property located at 116 Maple Road, Tax Map 12A, Lot A9 consisting of approximately 16.0 acres in the Residential Zone on February 14, 2022 at 7:30 p.m. There was a second by Brodbine. The Vice Chair polled the members: Shippee yes; Bissell yes; Hancock yes; Vollbehr yes; Brodbine yes; Parisi yes. All were in favor by roll call, the ***motion passed***.


The Vice Chair asked for other business. There was no further business presented for consideration.

Next Meeting: February 14, 2022

ADJOURNMENT

Motion to adjourn was made by Brodbine. There was a second to the motion by Hancock with no further discussion. All were in favor by roll call. ***Motion passed***. Adjournment occurred at 9:30 p.m.

Respectfully Submitted,



Beverly Bernard
Planning Board Secretary

Approved By:

Vice Chair Joseph P Parisi

Date 2/17/2022