



Town of Plaistow, New Hampshire
145 Main Street, Plaistow NH 03865
Phone: (603) 382-8469

PB Minutes 07/15/15

PLANNING BOARD MINUTES July 15, 2015

Call to Order: The meeting was called to order at 6:33 p.m.

ROLL CALL: Tim Moore, *Chair*
Charles Lanza, *Vice Chair (departed 7:12 p.m.)*
Gennifer Silva
Shem Kellogg
Steve Ranlett, *Selectman Ex-Officio*
Geoffrey Adams, *Alternate*

Also present: Mark Fougere, *Planning Consultant* and P. Michael Dorman, *Chief Building Official*

Agenda Item 2: Minutes of June 17, 2015 Planning Board Meeting

S. Ranlett moved, second by G. Silva, to approve the minutes of the June 17, 2015 meeting. There was no discussion on the motion. The vote was 3-0-2 (Kellogg, Ranlett abstaining)

Agenda Item 3: Public Hearing

PB15-10: An application for an Amendment to the Site Plan to include storage trailers/containers for multiple businesses on an existing industrial site. The property is located at 4 Wilder Dr, Tax Map 32, Lot 33 in the Industrial 2 District. The applicants are jointly the Condo Unit Owners of the Fieldstone Condominium Association.

Tim Lavelle, James Lavelle Associates, and Kevin Wade, President, Fieldstone Condominium Association, were present for the application.

T. Lavelle noted that following about the application:

- The purpose of the amendment to the site plan is to locate storage trailers and containers that are being used by various businesses on the parcel
- ENCO had five (5) containers on the north side of the property that they fill with merchandize to be shipped offsite
- One of the containers is used to store packaged asbestos solid waste for transport to the disposal location

K. Wade noted that ENCO makes containers to fill government contracts. He noted that there is never anything inside the containers while they are onsite.

T. Lavelle continued:

- The containers/trailers were located off pavement and over the property line. That has been corrected with the exception of one trailer owned by Pulsar. It was anticipated that trailer would soon be relocated to comply

There was a discussion about whether or not trailers and containers are considered structures. It was noted that because the trailers stay on the site for long periods of time, their parking location should be noted on the plan as should non-axeled containers. This is how the issue of them being off pavement and over the property line is avoided. It's also to make sure that there is still adequate parking for vehicles once all the trailers/containers are accounted for. It was noted that it was routine for businesses to be asked to locate trailers and containers on their site plans.

Examples of WalMart, Ashley's Hallmark and Home Depot were cited. It was also noted that it was important for insure there was still sufficient truck and emergency vehicle access to the site.

T. Lavelle continued:

- There will be no pavement or lighting
- Waivers have been submitted for items that are one the original site plan and were not carried forward to this amended. The recording information of the original site plan is noted on the amended site plan
- Additional proposed parking is indicated on the southwestern side of the property. This is at the request of the building inspector

T. Lavelle noted that he had driven through the property to make sure they had moved the trailers/containers onto the property and were cleaning the site as required.

T. Moore asked if the Board had any additional questions.

S. Ranlett moved, second by C. Lanza to accept the plan as complete.

S. Kellogg asked M. Dorman if he was comfortable that a Town permit was not required and that the product stored (at All State Abatement Professionals (ASAP)) was solid waste, not hazardous material.

M. Dorman replied that he "absolutely" was. He noted opinions from NHDES (New Hampshire Department of Environmental Services), EPA (Environmental Protection Agency) and Town Attorney Sumner Kalman.

G. Adams asked what determines whether or not asbestos is hazardous

M. Fougere noted the following:

- Friable and non-friable are both asbestos and the difference is that one cannot be broken by hand (non-friable) and one can be (friable).
- NHDES has not considered asbestos, either friable or non-friable, as a hazardous material going back as far as 1980
- The materials are collected on the job site by a licensed contractor who packages it and seals the packages in another container
- At no time are there any loose asbestos materials coming into Town
- The business is not, and cannot be, open to the public for collection of asbestos
- It is all considered solid waste when it comes into Town

James Peck, 206 Oak Ridge Rd asked to be heard on the asbestos topic. He offered his interpretation of EPA regulations list Asbestos, friable, as a hazardous material, which he believes would require permitting under Town Ordinance.

T. Moore noted that when it gets sealed in plastic and then sealed again in a container, which is the form that it comes into Plaistow, it is defined as solid waste.

C. Lanza added that there are hazards everywhere, using mercury in light bulbs as an example.

T. Moore stated that it is the opinion of the Code Enforcement Officer, the Town Attorney, the EPA and NHDES that the materials, as they come into and are stored in Plaistow, are not defined as hazardous.

M. Dorman added that it was also the opinion of the Board of Selectmen (BOS).

J. Peck suggested that there should be an opinion by an expert.

S. Ranlett offered that he, as a member of the BOS, was sworn to uphold an oath to protect the health, safety and welfare of the community. He noted that he had a telephone conversation with Doug Kemp, who has been with NHDES for twenty-one (21) years. He added that Mr. Kemp explained everything to him including the difference between friable and non-friable. The fact is that, in the mitigated and contained state, wrapped and seal in plastic and then sealed again in a container, which the asbestos comes into Plaistow it is not considered as a hazardous material, but a solid waste material. S. Ranlett noted that the Town Manager was part of the conference call and was given the same information.

J. Peck noted that friable is on the EPAs list of hazardous materials.

M. Dorman explained that the key word is contained; the asbestos that comes into Town is contained and therefore is not friable.

T. Lavelle noted that he had also done a lot of research on asbestos for this project. He reiterated that "friable" means that it can be broken apart, once it is sealed in plastic and then again in a container it is no longer friable, it's solid waste material by the EPA and NHDES definitions. T. Lavelle added that all the containment of the asbestos is done on the job site and most of the solid waste goes directly to the facility in Rochester. He noted that what is being stored is from smaller jobs until it is cost effective to be taken for permanent disposal.

There was continued discussion on the definition of friable vs. non-friable asbestos and whether or not it what is stored in Plaistow is considered hazardous material.

T. Moore noted that he wanted to get the asbestos issues talked out completely before continuing the site plan review/approval process. He asked if there was anyone else who wished to speak.

Kimberly Raymond, 7 Lynwood St, offered the following comments and concerns:

- Concerns for the process and dumping issue and asked if ASAP authorized to store hazardous materials over the aquifer
- Referenced RSA 141-E – Asbestos Management and Control
- Referenced Env-A 1800 – Asbestos Management and Control – Friable vs. Non-Friable
- Concerns for the level of oversight that NHDES will provide
- Concerns that the business was cited and fined in another state
- Not all State and Local permitting issues have been addressed

- What happens if one of the barrels/containers should drop off the trailer and what kind of exposure does that create
- Suggested that there are a number of issues that remain unaddressed and should be resolved before approval is given

S. Ranlett noted that companies drive through Plaistow everyday with hazardous materials on their trucks.

K. Raymond questioned if ASAP could be trusted to strictly adhere to the rules.

S. Ranlett offered that Doug Kemp explained to him about the checks and balances that are in place to make sure that what is picked up on the job site makes it to disposal. The manifests much match at all check points.

K. Raymond asked how ASAP had been allowed to store asbestos since 2003.

S. Ranlett offered that they had obtained their state permitting every year, but new requirements now mandate that the Town be notified. So the only change in the permitting was the notification requirements.

C. Lanza left the meeting at 7:12 p.m.

There was a brief discussion about the type of trailer that is used. It was noted that the container is enclosed and carried on a truck that rolls off the container into place. It was noted that there are two containers, that are plastic lined and they are swapped off when one gets full and is transported to the disposal facility.

K. Raymond suggested that the material should still be considered hazardous adding that if it wasn't it could go into any dumpster.

S. Ranlett noted that the asbestos is buried in the ground at the disposal location.

Laurie Milette, 27 Smith Corner Rd, offered the following comments and concerns:

- NHDES should not be relied on as they are the same organization who issued the Beede (EPA Superfund Site) two (2) permits

T. Moore offered that what happened at the Beede site is far beyond the scope of NHDES. He added that they have been a good partner with Plaistow working on conservation and wetlands issues as well as the Town's landfill. He stated that he saw no reason not to trust them.

L. Milette noted that she had spoken with John Sherman (Selectmen) and was told that there is a lack of oversight with NHDES. She expressed disappointment that they would not send a representative to speak with their group (Citizens for a Better Plaistow).

T. Moore explained that NHDES helps with the regulation and the science behind it. He added that every year budgets get cut and they may not have the manpower or budget resources to provide someone to speak to the group.

S. Ranlett offered that he's been on the Planning Board for a very long time and he takes great pride in the work that has been done. He said that no one takes a whimsical vote on any issue; they educate themselves, which is why he spoke at length with Doug Kemp. He added that he also has a friend who is in a similar line of work and has spoken with him. S. Ranlett noted that

they Board has to rely on someone and staff has done a lot of research on the topic and he's comfortable with the information that has been gathered.

Audrey Peck, 206 Oak Ridge Rd offered the following comments and concerns:

- Why is it necessary to have this kind of activity (asbestos storage) in Plaistow. What gain is there to the Town, how does it help the children of Plaistow.
- Concerns over who is "minding the store" and what happens when the barrels get rusty, rot and leak.
- Reminded that the Timberlane Regional High School is built on a landfill
- This is not a positive thing for Plaistow and she is not sure it is something that should just be accepted

Bob Hamilton, 3 Balsam Way offered the following comments and concerns:

- Concern that they have not yet received a reply from NHDES on questions that were posed to them regarding follow-up and inspections
- Asbestos is all over TV noting that many diseases that it can cause
- The Town may be subject to law suits for failure to protect the public
- The use should not be allowed without guarantees from NHDES that they will be inspected on a regular basis

S. Ranlett reminded that this application was not for the storage of asbestos but to amend the site plan for locations of trailers/containers and some parking.

T. Moore stated that G. Adams would now be a voting member in place of C. Lanza.

There was no additional discussion on the motion to accept the plan as complete. The vote was 4-0-1 (Kellogg abstaining).

M. Fougere noted that there were two (2) issues yet to be addressed, copies of the easement documents and a note regarding the distance to the nearest similar use.

T. Lavelle offered that the easement documents will be provided and the location of the nearest use will be noted on the plan.

WAIVER REQUESTS:

S. Ranlett moved, second by G. Silva to waive §230-14.1.F, Establishment of an Escrow Account. It was noted there is nothing that will need to be sent to engineering or legal for review. There was no discussion on the motion. The vote was 5-0-0 U/A.

S. Ranlett moved, second by G. Silva to waive §230-14.1.GG, Natural Features. It was noted there will be no changes to any of the natural features of the site. There was no discussion on the motion. The vote was 5-0-0 U/A.

S. Ranlett moved, second by G. Silva to waive §230-14.1.YY, Architectural Features. It was noted there will be no changes to the building. There was no discussion on the motion. The vote was 5-0-0 U/A.

G. Silva moved, second by S. Kellogg to waive §230-14.1.HH (separate landscaping plan), and §230-14.1.II (separate lighting plan). It was noted there will be no changes to any

of the natural features of the site. There was no discussion on the motion. The vote was 5-0-0 U/A.

S. Ranlett moved, second by G. Silva to waive §230-14.1.Z and §230-14.1.AA, Topographical Features. The topography was all mapped out on the original plan and that plan is referenced on this amendment. There was no discussion on the motion. The vote was 5-0-0 U/A.

S. Ranlett moved, second by G. Silva to approve the site plan amendment for the location of trailers/containers and additional parking with the following condition:

- ***All approved waivers will be noted on the plan***
- ***There will be a note on the plan for the next similar use***
- ***All easement documents will be provided to the Planning Office***

There was no discussion on the motion. The vote was 4-0-1 (Kellogg abstaining)

Agenda Item 4: Update on RPC and MPO

T. Moore noted that the next RPC meeting would be in Plaistow in September and the topic is MS4 Stormwater Permitting Process.

There were no MPO updates.

Agenda Item 5: Correspondence

FYI Notice from Department of Building Safety regarding hours of operation at USA1 Motors, 39 Westville Road

Agenda Item 6: Other Business

Bond Release Request – Plaistow Center, 3-9 Plaistow Rd

M. Fougere noted that he had received a request for a bond release for Plaistow Center and he was waiting to hear from CLD Engineering to see how much of the bond can be released.

Citizens for a Better Plaistow Email (Jim Peck)

M. Fougere noted an email from J. Peck requesting a written response to the letter that was sent to the BOS and read at a previous Planning Board meeting. The letter was in reference to ASAP at 4 Wilder Drive.

S. Ranlett offered that he spoke with J. Peck regarding the letter. He suggested that all the issues had been discussed earlier in this meeting.

T. Moore suggested that since the letter was directed to the BOS they should be the ones to address it. He added that the Planning Board would be willing to assist in any response.

Methuen Construction

S. Ranlett noted that he attended a ceremonial ground breaking for Methuen Construction at 144 Main St (former Process Engineering site). It was noted that the revitalization of this property could result in a number of new jobs for the area. It was also noted that they will most likely be

submitting site plan amendments in the near future.

M. Dorman noted that things are picking up and he has been talking with developers about a number of properties including:

- Piquette & Howard, 222 Plaistow Rd – New 7,000 sq ft building
- 15 Acres of residential land on Sweet Hill Rd
- Smith property, corner of 125/121A – commercial development
- 47 Acres of property on North Ave – Former location of Pine Knoll Kindergarten – possible residential/commercial development
- 3 ½ Acre parcel on Newton Rd – commercial development

M. Dorman added that most of these sites would have to come before the Planning Board before they could move forward.

T. Moore thanked all who participated in the earlier discussion. He noted that while it may seem that they are not listening because they are constrained by the definition, they do appreciate everyone's input and people's opinions do matter.

There was no additional business before the Board. The meeting was adjourned at 7:45 p.m.

Respectfully Submitted as recorded by Dee Voss.

Approved by the Planning Board on _____

Tim Moore, Chair