

NASHUA CITY PLANNING BOARD  
June 19, 2008

The regularly scheduled meeting of the Nashua City Planning Board was held on Thursday, June 19, 2008 at 7:00 PM in the auditorium at City Hall.

Members Present: Ken Dufour, Chair  
William Slivinski, Vice Chair  
Bob Canaway, Secretary  
Alderman Richard LaRose  
George Torosian  
Mike Lowe  
Daniel Latham  
Cynthia Overby (Alt)

There are no absent regular members so Mrs. Overby will not be voting.

Also Present: Mike Yeomans, Deputy Planning Manager

**Approval of Minutes**

June 5, 2008

**MOTION** by Mr. Lowe to approve the minutes of June 5, 2008, waive the reading and place on file.

**SECONDED** by Alderman LaRose

**MOTION CARRIED 5-0-2 (Mr. Canaway and Mr. Torosian abstained)**

**COMMUNICATIONS**

Mr. Yeomans went over the following items that were received after the mailing went out.

- Revised Agenda for tonight's meeting
- Replacement cards

**REPORT OF CHAIR, COMMITTEE & LIASON**

Mr. Canaway attended the NRPC meeting on June 18, 2008. They approved their 2009 budget. If anyone is interested it is posted on their web site. They are moving from Main Street, Nashua to

Executive Park Drive in Merrimack in September. Noreen O'Connell is now the new chair.

Chairman Dufour went into the procedure of the meeting as follows:

After the legal notice of each site plan or subdivision is read by the Chair, the Board will decide that the application is complete and ready for the Board to take jurisdiction of the application. If so, the applicant or representative will be given time to present an overview and description of their project. The applicant shall speak to whether or not they agree with recommended staff stipulations. The Board will then have an opportunity to ask questions of the applicant and staff.

The Chair will then ask for testimony from the audience. First anyone wishing to speak in opposition or with concern to the plan may speak. Come forward to the microphone, state their name and address for the record. This would be the time to ask questions they may have regarding the plan.

Next testimony will come from anyone wishing to speak in favor of the plan. This will also be the time for the applicant to address any issues or concerns raised by prior testimony.

The Board will then ask any relevant follow-up questions of the applicant if need be.

The Board asks that both sides keep their remarks to the subject at hand and try not to repeat what has already been said and to be courteous at all times.

Above all, the Board wants to be fair to everyone and make the best possible decision based on the testimony presented and all applicable approval criteria established in the Nashua Revised Ordinances for site plans or subdivisions. Chairman Dufour noted that the Planning Board does not make zoning decisions. Zoning determinations are made by the Administrative Officer prior to the Board's legal public notice being sent to abutters.

After the public testimony is given the Board will discuss the issue and render their decision.

Chairman Dufour thanked everyone for their interest and, courteous attention and asked that everyone turn off his or her cell phones and pagers.

**OLD BUSINESS - CONDITIONAL/SPECIAL USE PERMITS**

None

**OLD BUSINESS - SUBDIVISION PLANS**

None

**OLD BUSINESS - SITE PLANS**

1. TUVA, LLC c/o Peter's Auto Sales, Inc (Owner) - Application acceptance and proposed amendment to NR895 to show a change of use from retail shoe store to car sales with drainage and site improvements. 195 Daniel Webster Hwy, Sheet A - Lot 997, Zoned "HB" - Highway Business. (Postponed until the July 10, 2008 Meeting)

**OLD BUSINESS - SITE PLANS**

2. Red Fall, LLC & Hera Development Corporation (Applicants) Nicholas Heras, Jr. (Owner) - Application acceptance and proposed amendment to NR1699 for the construction of a 1 story, 6,480 square foot building for retail/restaurant use with associated access, parking and site improvements. 341 & 345 Amherst Street, Sheet G - Lots 28 & 30, Zoned "GB" - General Business. (Postponed to the July 10, 2008 Meeting)

**NEW BUSINESS - CONDITIONAL/SPECIAL USE PERMITS**

None

**NEW BUSINESS - SUBDIVISION PLAN**

3. Dorothy Vanderlosk Living Trust (Owner) - Proposed subdivision of one lot into 2. 62 Charlotte Street and Beauview Ave, Sheet 115 - Lot 51, Zoned "RA" - Urban Residence.

**MOTION** by Alderman LaRose that the application is complete and the Planning Board takes jurisdiction of the application.

**SECONDED** by Mr. Lowe

**MOTION CARRIED UNANIMOUSLY**

Richard Maynard, Maynard & Paquette

The site is a 15,000 square foot lot. Minimum lot size for this zone is 7,500 square feet. The proposal is to subdivide it into 2 lots, approximately 7,500 feet in size. The applicant meets all the requirements. There are no variances. Drainage will be handled by leaching cisterns connected to the roof gutters. There is a waiver for sidewalk construction with a contribution of \$7,500. Mr. Maynard said the applicant is asking the Board to consider that the sidewalk contribution be paid at the time of building permit for this case because it is part of a trust and the money is unavailable until the lot is sold and built upon.

Alderman LaRose asked if the owner lives there.

Mr. Maynard said the executor of the trust lives there and he will remain living there. Just the lot is for sale.

#### **SPEAKING IN OPPOSITION OR WITH CONCERNS**

Tom Cassin, 60 Charlotte Street

Mr. Cassin said he has lived there for 41 years and his property abuts the lot. He realizes that Zoning permits the building and lot be separated but it is sad to see things get that closed in. He thinks there might be an environment concern. There is a building that will be destroyed that has been used as a chicken coop and rabbit hutch for 40 years. There are substantial droppings that have been in that area. The distance between the rear lot line in the proposed new lot and the back of the garage is 6 feet. It was Mr. Cassin's understanding the setback in that area is 25 feet. His other concern is elevation. Mr. Cassin said his property slopes several feet from south to north. If the applicant comes in and changes the property there could be a drainage situation and that is a concern. This property has been surrounded by a chain link fence for 40 years. About 2 years ago the chain link was taken down and a 6-foot stockade fence enclosed the whole property. He would like to see a stipulation that a fence is kept at least on his side of the property. There is a cistern proposed about 2 to 3 feet off the lot line. He is concerned that the property slopes that way and will there be a water issue.

Tom Dion, 87 Beauview Avenue

Mr. Dion has concerns around the chicken coop and there was a lot of junk sitting there for years. He is concerned about what has seeped into the soil on top of the chicken coop. He wants to make sure that is addressed before they start digging. There

is a fence on his side and he would like to see that stay. Mr. Dion said he doesn't want to see when they build the house is to grade it up so all the water doesn't come to his yard. He would like to ask that if a house is built the driveway and garage be built on his side of the lot, like it is shown on the plan.

**SPEAKING IN FAVOR OF THE PLAN**

No one.

Mr. Maynard said a detached structure, such as a garage is only required to have a 6-foot setback. Mr. Maynard said there hasn't been chickens on the property in some time but didn't know for sure. Topography on this lot will not be changing. They are proposing the leaching cisterns to recharge the ground water which will reduce runoff from the site. It is 10 feet off the lot line which is the standard. It is 6 feet deep and recharge down 5 to 6 feet below the ground. The soil in this area is good, sandy and well draining so there shouldn't be any repercussions. Mr. Maynard said it is the applicant's right to put up the fence but it is also his right to take it down. The fencing will stay for now but he didn't know about long term. The layout of the house is a suggested layout but it is a personal preference of whoever chooses to build.

Mr. Lowe said it doesn't appear on the plan that the cisterns are 10 feet from the lot line.

Mr. Maynard said they should be and if the Board wants they can add it as a stipulation.

Mr. Slivinski asked if they have ever tested the soil around the shed.

Mr. Maynard said no. In his experience nobody has ever raised a question about chicken coops. They could have a stipulation that the soil be tested at the demolition of the shed.

Mr. Yeomans said other chicken coops have been knocked down on other projects and the issue has never come up with the demolition, but he would send an inquiry over to the Health Officer and see if there is a need for testing and if it is a health issue.

Chair Dufour said this concludes the public hearing on this application. They will now carry the deliberations into the

public meeting. The Board reserves the right to recall any party to this case for clarification.

Chair Dufour said if the Board makes a stipulation to have the soil tested before this project goes through, the Board should consider the ramifications. A precedent might be set.

Alderman LaRose said if you go back in history in Nashua a lot of people had chicken coops and some had pig farms. There were many small farms. If they made this stipulation they may have to require an environmental study for every lot.

Chair Dufour said there was concern about the fence. The Board can't make a stipulation that they keep the fence up forever. They can make a stipulation that the fence that is there will stay there. Mr. Maynard had requested that the sidewalk contribution be made at the time of the building permit and that request seems reasonable.

Alderman LaRose said he thought that when the land is sold the sidewalk contribution should be paid by the trustee of the land to the City of Nashua.

Mr. Yeomans said that would be difficult. Staff wouldn't know when a property is sold. Collecting the fee at the time of recording the plan makes it clean and done.

**MOTION** by Alderman LaRose to reenter the public hearing for the purpose of taking testimony.

**SECONDED** by Mr. Lowe

**MOTION CARRIED UNANIMOUSLY**

Mr. Maynard said the chicken coop was for the family. It was small with just a few chickens. The junk that was outside was typical household junk. It wasn't a junkyard. This is a small family trust. This Board has allowed the sidewalk contribution to be paid at the time of building permit and/or CO. It would be a hardship for the applicant to come up with the money for the sidewalk contribution at the time of the recording of the plan.

Chair Dufour said this concludes the public hearing on this application. They will now carry the deliberations into the public meeting. The Board reserves the right to recall any party to this case for clarification.

Mr. Slivinski said that the time to collect the sidewalk contribution is when the plan is recorded.

Chair Dufour agreed with Mr. Slivinski.

**MOTION** by Mr. Lowe to approve New Business - Subdivision Plan,#3, Dorothy Vanderlosk Living Trust (Owner), subdivide 1 lot into 2. 62 Charlotte Street and Beauview Avenue. It conforms to NRO 190-138(g) with the following stipulations and waivers:

1. Prior to the plan being recorded bonding for work in the public right-of-way shall be approved by the Division of Public Works and Corporation Counsel, if required.
2. Prior to the plan being recorded the stormwater operation and maintenance plan shall be reviewed and recorded with the plan.
3. Prior to the plan being recorded the applicant shall resolve any outstanding issues with the Division of Public Works.
4. Prior to the issuance of the certificate of occupancy all work within the public right-of-way shall be completed to the satisfaction of the Division of Public Works.
5. The request for waiver of sidewalk construction and acceptance of a contribution is granted. The \$7,500 sidewalk contribution shall be paid at the issuance of a building permit. A note to be placed on the plan.
6. Cisterns will be installed at least 10 feet from any lot line.
- 7 Staff will contact Health Department regarding toxicity of chicken manure. If the Health department determines testing is required the test will be performed.

**SECONDED** by Mr. Latham

**MOTION** to amend the motion by Alderman LaRose to add stipulation #8 that the existing fence not be removed. The fence on the south, north and east side of the property will remain. The fence along Beauview Ave comes down.

**SECONDED** by Mr. Torosian

**MOTION CARRIED (5 TO 2)**

**MOTION** by Mr. Canaway to amend stipulation #5 to read: The request for waiver of sidewalk construction and acceptance of a contribution is granted. The \$7,500 sidewalk contribution to be paid to the City of Nashua prior to recording of the site [subdivision] plan.

**SECONDED** by Mr. Slivinski

**MOTION CARRIED UNANIMOUSLY**

Chair Dufour said they now have before them a motion for approval, as amended with 8 stipulations.

Mr. Slivinski asked for clarification concerning the fence. He asked if they have to leave it up until the certificate of occupancy.

Chair Dufour replied that it does not get torn down with the subdivision. He said they are protecting the initial subdivision by the fence staying up. The new owners can tear it down.

**MOTION CARRIED UNANIMOUSLY**

**NEW BUSINESS - SITE PLANS**

4. Larry D. Constant (Owner) - Application acceptance and proposed site plan for the construction of a 1-story, 1,200 square foot building for property management business with associated access, parking and site improvements. 8 Chase Street, Sheet 24 - Lot 11, Zoned "GI" - General Industrial.

**MOTION** by Alderman LaRose that the application is complete and the Planning Board takes jurisdiction of the application.

**SECONDED** by Mr. Torosian

**MOTION CARRIED UNANIMOUSLY**

Richard Maynard, Maynard & Paquette

The site is 7,345 square foot lot with house and garage. This is a mixed-use neighborhood. On February 12, 2008 the ZBA granted a variance. The proposed building will have a 2 bay garage. There will be storage on two levels. They will expand the existing driveway so they will have a total of 6 parking spaces. The existing house has vinyl siding and the garage will also be vinyl sided. The new building will have leaching cisterns

connected to the roof gutters and an additional leaching catch basin in the new paved area. No drainage connection to the city's system. Landscaping will be added to the front. Sidewalks exist on both sides of the street. One of the stipulations of the ZBA is a motion detector light for security purposes on the southerly side of the house.

Mr. Slivinski asked if it is a one-story or two-story building.

Mr. Maynard said the overhead doors are 12 feet high. There will be two levels of storage. One side will be one-story and the other side will be two floors.

Alderman LaRose asked if someone will be living in the existing home.

Mr. Maynard said yes, it is a rental.

Alderman LaRose asked about stipulation 3.

Mr. Yeomans said he wasn't sure exactly what the city engineer was trying to achieve so he put in that stipulation in order to have the applicant check with the engineer to make sure their issues are resolved prior to recording of the plan.

**SPEAKING IN OPPOSITION OR WITH CONCERNS**

No one.

**SPEAKING IN FAVOR OF THE PLAN**

No one.

Alderman LaRose asked if there will be office space inside the garage.

Mr. Maynard said it was for parking of the vans and storage vans.

Chair Dufour said this concludes the public hearing on this application. They will now carry the deliberations into the public meeting. The Board reserves the right to recall any party to this case for clarification.

**MOTION** by Mr. Lowe to approve New Business - Site Plan, Larry Constant (Owner) construct 1 story building, 8 Chase Street,

Zoned "GI" - General Industrial. It conforms to NRO 190-146D with the following stipulations and waivers:

1. Prior to any work being started the applicant and their contractors shall hold a pre-construction conference with Planning staff.
2. Prior to the issuance of a building permit the stormwater operation and maintenance plan shall be recorded.
3. Prior to the issuance of a building permit the applicant shall resolve any outstanding issues with the Division of Public Works concerning sidewalk improvements and signage.
4. The waiver request for building design, Sec. 190-172 (c)(d) and (e) is granted.
5. All conditions of approval as stipulated by the Zoning Board of adjustment are incorporated herein and made a part of this site plan approval.
6. With approval of this site plan the Planning Board approves the building materials used on this building.

**SECONDED** by Mr. Torosian

**MOTION CARRIED UNANIMOUSLY**

**OTHER BUSINESS**

Review of tentative agenda to determine proposals of regional impact.

None

**MOTION** by Mr. Slivinski that there are no issues of regional impact.

**SECONDED** by Mr. Torosian

**MOTION CARRIED UNANIMOUSLY**

**DISCUSSION ITEMS**

Chair Dufour asked if any members are driving on East Dunstable Road, take a look at 187 & 189 East Dunstable Road.

Mr. Canaway said in the NRPC meeting said that someone from Merrimack said the outlet mall project is continuing on where it

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was determined to be of regional impact and Nashua is an abutter.

Mr. Yeomans said he hasn't seen any notification of regional impact. He will check with the Planning Director.

**MOTION TO ADJOURN** by Mr. Lowe at 8:40 p.m.

**APPROVED:**

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Ken Dufour, Chair, Nashua Planning Board

**TAPES OF THIS MEETING ARE AVAILABLE FOR LISTENING DURING REGULAR OFFICE HOURS.**

**COPIES OF TAPES MAYBE MADE AVAILABLE UPON 48 HOURS ADVANCED NOTICE AND PAYMENT OF THE FEE.**

Taped Meeting