



**TOWN OF WINCHESTER
PLANNING AND ZONING COMMISSION
Town of Winchester Town Hall
338 Main Street - 2nd Floor – P. Francis Hicks Room
March 9, 2020 – 7:00PM
Regular Meeting Minutes**

1. CALL TO ORDER:

Chairman George Closson called the meeting to order at 7:00PM.

2. ROLL CALL:

Mr. Closson conducted the roll call, noting that the following individuals were present: Craig Sanden, Peter Marchand, Jerry Martinez, and Alternates John Cooney and Will Platt.

Art Melycher was absent. Will Platt was seated in his stead.

3. PUBLIC COMMENT:

No comment was received.

4. AGENDA REVIEW:

The agenda was modified to move *Review Town Manager's Proposed Capital Improvement Budget pursuant to Section 1106D of the Town Charter* ahead of *Old Business*. Additionally, a discussion on *Short Term Rentals* was added to *New Business*.

MOTION: Mr. Marchand, Mr. Sanden second, to move Agenda Item #11 ahead of Item #5; unanimously approved.

MOTION: Mr. Martinez, Mr. Marchand second, to modify the agenda as discussed; unanimously approved.

5. OTHER BUSINESS:

A. Review Town Manager's Proposed Capital Improvement Budget pursuant to Section 1106D of the Town Charter.

Town Manager Bob Geiger appeared before the Commission to discuss his proposed Capital Improvement Budget plan. Copies of the proposal had been included in the packages for the commissioners in advance of the meeting.

Mr. Geiger noted that the proposed budget went out for five years. He noted that money left over from this year will be used next year for the same category. Mr. Geiger noted that the Board of Education money appearing as left over is for facilities and will not be used for the construction of Hinsdale School. He explained that the financing of the Hinsdale School project will not begin until FY23.

He reviewed the allocations for the Police Department including one for cruiser replacement and one for radios. A new smaller road grader was included in the Public Works budget. Revaluation costs were included for the Assessor as was a \$50K allocation for windows for the Soldiers' Monument. Mr. Closson questioned whether the allocation for computers included software. Mr. Geiger noted that it did not; the sum would cover the hardware for forty new computers only. Mr. Martinez questioned whether a lease program has been explored. Mr. Geiger noted that it had but that it could be pursued further to see whether it might now make sense to go in that direction. Mr. Martinez questioned whether the budgeted figure in the capital plan included security protection for the computers. Mr. Geiger indicated that it did.

The capital plan included replacement of the cupola and the elevator tower to Town Hall, according to Mr. Geiger. He reviewed the reasons why having the Police Department in the ground floor of Town Hall was preferred. In response to an inquiry from Mr. Closson regarding the sally port, Mr. Geiger confirmed that the town's sally port worked fine.

Mr. Geiger reviewed the road projects including Holabird Avenue.

MOTION: Mr. Closson, Mr. Sanden second, to forward a positive referral of FY20-21 Capital Improvement Plan to the Board of Selectmen as presented on March 9, 2020; unanimously approved.

6. PUBLIC HEARINGS:

None.

7. OLD BUSINESS.

None.

8. NEW BUSINESS:

A. PZC#20-03 – Site Plan Modification Request – 149 Newfield Road – Applicant: East Coast Assistance Dogs Owner: ECAD Proposal: Modification of Site Plan.

Attorney Peter Herbst accompanied by East Coast Assistance Dogs (ECAD) Executive Director and President of the Board of Directors Dale Picard, Professional Engineer Jason Dismukes, and Architect Michael Boe appeared before the Commission regarding this application.

Prior to testimony from the applicant and their representatives, staff reminded the Commission that they had been provided in their packages copies of the current application, a copy of a legal opinion they had requested from Attorney Kevin Nelligan regarding the form of the application, a copy of the 2016 approved site plan along with the related Minutes regarding that approval, a copy of the 2018 site plan approval along with the related Minutes regarding that approval, and a marked-up site plan completed by staff depicting the approval contrasted with the proposed modifications

Attorney Herbst provided a copy of his December 2019 letter to Zoning Enforcement Officer Marc Melanson. He reminded the Commission that as part of the 2016 approval, Attorney Nelligan's opinion from 2011 had deemed his client's business as a commercial kennel pursuant to Section 5.1.5. of the then Zoning Regulations. He noted that at the time, Attorney Nelligan deemed his client's use to be most analogous with a commercial kennel rather than commercial recreation. He referred to a 2016 memorandum from former Town Planner Steven Sadlowski that referenced the 2011 opinion and advised the Commission that the decision was left to this commission what the proper permitting route was for the application. He noted that in 2016, this Commission approved the use of a commercial kennel through a site plan and noted that the site plan was revised in 2018. Attorney Herbst reminded the Commission that between the 2016 and 2018 site plans, the zoning regulations were changed to reflect commercial kennels as approved through a Special Permit.

Attorney Herbst noted that Attorney Nelligan had advised that in order to act on the current proposal, the Commission must find that the modifications are minor and not so substantive so as to require a new application. Attorney Herbst opined that the current proposed changes were more minor than the modifications approved in 2018 and only consisted of three changes: 1. To enhance the stormwater management; 2. To relocate parking; and 3. To lower the finished floor of a second building.

It was noted that there were no written comments from Zoning Enforcement Officer Marc Melanson. Mr. Marchand questioned whether an As-Built was submitted for the current building. It was noted that there had not been. Mr. Dismukes explained that part of the current phasing plan and in pursuit of a Certificate of Occupancy, a meeting had occurred with Mr. Melanson to receive a punch list of outstanding items. Mr.

Dismukes noted that part of this current project would be to provide an As-Built of that building. Mr. Marchand noted that the previous approval required an As-Built. Mr. Picard reported that he had submitted one, but that Mr. Melanson had indicated that it was not acceptable.

While the Commission was initially inclined to discuss the form of the application submitted, in terms of whether the application is a site plan modification or whether a Special Permit was going to be necessary, Attorney Herbst requested that Mr. Dismukes be allowed an opportunity to go over the plans and explain how the current plans are better. Staff noted that the distinction to be made is not whether they are better but instead whether they are more than minor in nature.

Mr. Dismukes noted that while the changes may look like a lot, they are really changing only three things. He noted that parking is being moved. Additionally, his client is seeking to enhance the stormwater management. Attorney Herbst noted that the building is being lowered too. Mr. Marchand noted the addition of the outside dog kennel. Mr. Picard noted that the kennels are indoors. Mr. Marchand noted the area depicted as "outdoor dog run". Mr. Picard explained that those were so ECAD could exercise the dogs as they still need to go out. He noted that they are not changing anything from what is occurring right now on the campus and that he is proposing to split that in two. He noted that half of the dogs are in the other lot down near the road and the other half are moving to this lot. Mr. Picard reported that what will change is that he won't have to spend two tanks of gas per week transporting dogs from one lot ("the bottom") to the other lot ("the top"), loading and unloading and driving to the bottom. He explained that he currently has a person, just driving, driving all day long, six hours per day, transporting dogs back and forth. Mr. Picard explained that the vans are handicap accessible vans that are outfitted with the rear noise makers which he noted as bothering his neighbors.

Mr. Picard explained that he had never realized that the setbacks to the property line were supposed to be dead space. He noted that he had assumed that was the distance that buildings needed to be away from the property lines. Mr. Picard explained that he needed a space to exercise his dogs. He noted that he had photographs of the neighbor's dogs in his yard and relayed experiences he had with their dogs attacking his. Mr. Picard explained this as the reason to the added fencing that he has added to his site.

Mr. Martinez noted the letters submitted from the neighbor at 147 Newfield Road.

Attorney Herbst implored the Commission to hear details on the proposal from Mr. Dismukes prior to making a determination as to whether the proposed changes are minor. It was noted that the Commission had been provided with both copies of the site plans from 2016 and 2018. Mr. Closson invited Mr. Dismukes to review his plans.

He distributed copies of a list that he characterized as differences between the 2018 plan and the current plan. Mr. Dismukes explained that the upper, completed building has increased in size since originally approved. He noted that it was larger than what had been approved in 2018. The existing building as approved in 2016 was proposed at 8744 square feet and then increased to 8885 square feet as part of the 2018 approval, according to Mr. Dismukes. He noted that the building, as constructed, is 8980 square feet. Mr. Picard explained that the design of the building changed because the radius of the building was too tight to make the originally proposed glass block work. Mr. Boe explained that the building was squared off as a result.

The parking lot rotated counterclockwise from the 2016 approval when it was modified in 2018, according to Mr. Dismukes. Three additional parking spaces were added to the upper lot in the 2018 plan, too. Wells were located from the front yard to the back yard from 2016 to 2018. Stairs and walkways were eliminated between the 2016 and the 2018 plan.

Mr. Dismukes noted the error in the slope as it had been proposed in the 2016 and 2018 plans.

A building of 5000 square feet that Mr. Dismukes opined had been approved in 2016 and 2018 as Phase III would be lowered by 3½ feet. By doing so, it will allow for people to walk around the building, according to Mr. Dismukes.

Mr. Dismukes reviewed the proposed new parking. He also reviewed the proposed stormwater management plan, noting that it had been presented to the Inland Wetlands and Watercourses Commission.

Staff questioned the impervious surface coverage at the site. Noting that the site plans were the same between the current application, PZC#20-03 and the one that was recently withdrawn, PZC#20-01, she questioned why the Zoning Table had been changed to exclude the gravel driveway from the coverage calculation. The Zoning Table that had been included previously under PZC#20-01 had reflected the coverage as 15.8% when including the driveways. Mr. Dismukes explained that when Professional Engineer Tom Shannon had been questioned with the 2016 application what Low Impact Development (LID) techniques had been included with the plan, Mr. Shannon had referred to the driveway being constructed of sand and gravel and characterized it as pervious. Discussion ensued regarding whether the Zoning Table should include the driveway as impervious.

Mr. Dismukes reviewed a punchlist provided by Mr. Melanson with his comments regarding zoning compliance for a CO for the upper building. Discussion followed.

The gravel drive depicted near the site of the proposed generator was discussed. Mr. Picard disagreed with it being identified as a gravel drive as he noted that there was filter fabric and two dump trucks of gravel dropped there but was not what he would consider a gravel drive. It was noted that an additional gravel drive near the parking lot at the northerly part of the site had been added.

Mr. Closson canvassed the Commission regarding the modifications proposed and whether they found them to be minor. Mr. Martinez noted the dog run as not being minor especially from the perspective of the neighbor and would be substantive in nature. Mr. Sanden recalled that an outdoor aspect of a kennel was specifically prohibited in either the 2016 or 2018 considerations. Mr. Marchand agreed, reading from the 2016 approval, that dogs should be kept inside the building and no outdoor kennels could be constructed as part of that approval. He noted that occasional outdoor exercise was permitted. Mr. Dismukes noted that it was a dog run. Mr. Picard noted that a dog run is approximately four (4') feet wide and can vary from six to eight feet deep. He explained that ECAD is not doing dog runs but is instead proposing communal runs. He further explained that communal runs always have to be outside with people with the dogs. Mr. Sanden recalled that the main concern was noise associated with dogs so there was no outside kennels allowed. He noted that runs were never proposed. Mr. Marchand noted that there was no dumpster shown on the proposed site plan. Mr. Dismukes noted that the dumpster was on the other parcel. Mr. Marchand questioned whether the dumpster was in a fenced area. Mr. Picard indicated that it was not.

Mr. Platt noted that an additional parking lot was being added.

MOTION: Mr. Sanden, Mr. Marchand second, that this be considered a significant change to the plans that had been presented in 2016 and 2018 and approval would require a Special Permit application; unanimously approved.

Prior to the vote on the aforementioned motion, Mr. Closson explained that after reviewing the application and hearing from the applicant and his team regarding the variations and so forth, the consensus of the Commission was that what was being proposed does not measure up to a simple site plan approval. When staff questioned whether the Commission was denying the application, Mr. Closson indicated that they were not. They found that it would require a Special Permit application. He questioned the fees between the two types of applications. Staff noted the difference was \$75.

B. Discussion of Short Term Rentals.

Mr. Martinez noted that the two-year anniversary of the initial discussions regarding regulating Short Term Rentals was approaching. He proposed that the Commission make a final determination over the direction to take. It was noted that there would a workshop discussion at the next meeting.

MOTION: Mr. Martinez, Mr. Closson second, to add Short Term Rentals as a Special Permit to the Zoning Regulations as a discussion item at a future meeting; unanimously approved.

9. APPROVAL OF MINUTES: February 10, 2020.

MOTION: Mr. Sanden, Mr. Marchand second, to approve the February 10, 2020 Regular Meeting Minutes; unanimously approved.

10. COMMUNICATIONS:

Copies of the DEEP Dam Division approval for the repairs to the flood wall at the marina were distributed to the Commission.

11. STAFF REPORT:

Staff reported that Mr. Melanson is out of work recovering from a foot injury and his return date is uncertain. Applications both before and recently heard by the Zoning Board of Appeals was discussed.

12. OTHER BUSINESS:

B. Rural Residential Zones/Town Gateway Zones.

Mr. Closson reported that the Old Hudson Wire properties on Main Street, near Coe Street, were currently zoned Rural Residential. He noted that it was likely a mistake as those parcels were more fitting as being zoned Town Gateway. The Commission agreed and requested that a public hearing be scheduled for these changes.

MOTION: Mr. Closson, Mr. Marchand second, to schedule a public hearing to change the zoning districts from Rural Residential to Town Gateway for the two parcels, Map 101 Block 102 Lot 001 and Map 101 Block 102 Lot 012, for May 11, 2020; unanimously approved.

C. POCD Discussion.

Mr. Sanden reminded the Subcommittee that a meeting was scheduled for Monday, March 16, 2020 at 6PM. The sections were broken up with Mr. Sanden agreeing to work on Sections 10 and 11, Mr. Marchand agreeing to work on Sections 2.1 and 3.1, Mr. Closson agreeing to take Sections 4.1 and 5.1, Mr. Martinez agreeing to take Sections 6.1 and 7.1, and Mr. Cooney agreeing to take Sections 8 and 9.

11. ADJOURNMENT:

MOTION: Mr. Closson, Mr. Marchand second, to adjourn at 9:28PM; unanimously approved.

Respectfully submitted,

Pamela A. Colombie
Recording Clerk