

TOWN OF ANDOVER
PLANNING & ZONING COMMISSION
MONDAY, MAY 3rd, 2022 - 7:00 P.M.
LOCATION: VIRTUAL MEETING VIA ZOOM

SPECIAL MEETING MINUTES

Members Present: Chair Jed Larson, Scott Person, Leigh Ann Hutchinson, Steve Nelson, Susan England (alternate), and Anne Blanchard (alternate)

Member Absent: Vice Chair Anne Peterson Cremé

Others Present: Jim Hallisey – Zoning Agent, Abbie Winter – Board Clerk, Andy Minicucci, Dianne Grenier, Douglas Grunert, Mark Branse, Matthew Bruton, Peter Alter, Sarah Costagliola, and Stephen Minicucci

1) CALL TO ORDER: Chair J. Larson called the regular meeting to order at 7:01 p.m.

2) ROLL CALL/SEATING OF ALTERNATES: J.Larson seated S.England in place of A.Cremé.

L.Hutchinson stated her mother is an abutting property owner to 580 Lake Road, but she is not. M.Branse asked her to state if she can act on this application with respect only to the evidence that she heard during the public hearing, the criteria of the regulations, and without any regard to her mother's ownership of the property. She confirmed she can.

M.Branse asked S.England if she is qualified to participate and to vote on this application. S.England confirmed she is because she watched the entire recording of the April 18th meeting that she missed.

3) OLD BUSINESS

Action/Discussion Item - Site Plan Application from Garret Homes, LLC (Gary Eucalitto), Property of 580 Lake Road, Applicant seeking a Site Plan Approval for a permitted use (retail) in an Industrial Zone.

J.Larson summarized that the public hearing is closed, and the 65-day deadline for action following receipt of the application will expire before the next regular meeting on May 16th, hence the need for this special meeting.

J.Larson stated from the regulations that there must be an 100' separation between the two driveways on Lake Road – the applicant's proposed driveway and the Ben Franklin driveway. Given that there is not an 100' separation, the regulations advocate for common driveways. J.Larson recognized the current property owner and potential tenant are not interested in a common driveway, and he stated his intent to provide a condition for approval that would allow the application to meet the regulations.

J.Larson described the Zoning Board of Appeal's ability to grant a variance for this particular property, since the driveway's location is in a good place. However it does not meet the 100' separation regulation.

M.Branse provided reiteration that the applicant does not have to disclose the potential tenant since this is irrelevant for the Commission's purposes. The Commission needs to completely disregard who the retailer may be, since this is completely irrelevant and has no place in this discussion. If a Commission member cannot disregard concern for the future tenant in their decision making, they must recuse themselves.

J.Larson shared Regulation 23.4. He discussed the “similar uses” component. M.Branse suggested this may be a typo - “for similar uses” might mean to read as “or similar uses”.

J.Larson discussed whether or not moving the driveway 100’ away from Ben Franklin Plumbing’s driveway would “preclude access”. He stated moving the driveway 100’ away would *not* preclude access, however, this would relocate the driveway closer to Route 6 which the Commission does not want. Therefore J.Larson thinks this is a good case for a variance.

J.Larson noted on Lake Road, the proposed driveway is within a couple hundred feet of the Merritt Valley Rd stop sign, Hop River Rail Trail cross walk, Ben Franklin Plumbing entrance, crosswalk going to the potential parking area for the Hop River Rail Trail, and the traffic light. J.Larson stated due to this, he favors a shared driveway.

J.Larson stated the Commission can include a common shared driveway as a condition of approval. He showed where the Ben Franklin Plumbing’s driveway could connect to the future tenant’s driveway.

J.Larson showed J.Hallisey’s drafted motion. M.Branse suggested to add after all the conditions the sentence: “The preceding conditions are integral to this motion for approval in that without them, the application would have been in violation of the Zoning Regulations and the Commission would have had no choice but to deny it.”

J.Hallisey noted the public hearing request from an abutting property owner to include a fence separating his property from the future tenant. J.Larson stated a Commission member can advocate to add this request as a condition for approval.

S.Nelson asked for clarification on how the application can be approved if the applicant does not apply for a variance.

M.Branse stated the Commission cannot grant a variance. The conditions of approval as written with the provision for a shared driveway bring the application into compliance such that the applicant doesn’t need a variance. M.Branse stated Ben Franklin Plumbing does not have an application before the Commission. The Regulation states that the Commission may make a provision for shared driveways. This provision allows for the applicant’s driveway to be located 100 feet from the adjacent Ben Franklin Plumbing driveway since it will be combined with the adjacent driveway when the Ben Franklin Plumbing property eventually comes to the PZC for further review.

S.Nelson expressed concern about the situation if Ben Franklin Plumbing doesn’t come to the PZC for further review. M.Branse recognized that the Ben Franklin Plumbing property may not come in for further review, however the Regulations read that the driveway must be designed and easements to adjacent properties must be conveyed in order to facilitate a present or future sharing of such driveways. The conditions for approval create a provision for *future* sharing of driveways.

J.Larson asked if the applicants still maintain that they do not want an extension, which would allow them to work on an alternative solution to the Commission’s concerns. P.Alter, attorney representing the applicant, respectfully declined to discuss an extension.

S.Person MOVED to approve application of Garrett Homes, LLC for a Site Plan Review in accordance with their application and plan entitled “Land Development Plans Issued for Permitting, Proposed Retail Development, 580 Lake Road, Andover, Connecticut Prepared for

Garrett Homes, LLC by BL Companies”, dated November 18, 2021, as revised through March 18, 2022, sheets 1 through 33 with the following conditions. S.Nelson SECONDED.

PRIOR TO SIGNING THE FILING THE FINAL PLANS THE MYLARS SHALL BE MODIFIED SO TO SHOW THE FOLLOWING:

The sidewalk shown along the Lake Road frontage shall extend in a northerly direction to the Route 6 pavement with a landing area adjacent to the pedestrian button pole;

A sidewalk landing shall be shown so as to extend from the new sidewalk along Lake Road out to Lake Road at the southeasterly corner and adjacent to the proposed driveway;

Add the sign detail which includes dimensions to the final plan which shall be in conformance with the Zoning Regulations;

Rights to drain on to subject property shall be granted to adjoining property currently in the name of Lake Road, LLC situated to the southwest. Plans shall note same and the requisite documentation shall be submitted to the Town of Andover’s Building and Land-use Office for review and approval prior to filing with the Town Clerk;

A note shall be added indicating that sightline improvements shall be performed in accordance with the Andover Zoning Regulations and the Town Engineer’s recommendation in his correspondence dated April 13, 2022, which has been incorporated into the public record of this application;

The Letter of Approval of the applications listing all conditions of approval issued by the Town of Andover shall be added to the final mylars.

The design engineer shall assess the option of discharging the runoff from the roof into the subsurface system so as to further encourage infiltration during all seasons, including the winter freeze conditions and shall provide the assessment to the Town Engineer. If upon consultation with the Town Engineer, the plan should be modified to reflect same.

Notes shall be added 1) to address the fact that a final engineered design for the pervious pavement structure shall be submitted to the Town Engineer for review and approval **and** 2) the design engineer shall oversee the installation of the pervious pavement structure engineer who will provide a certification that the installation was performed substantially in accordance with the design;

The pavement at the southerly end of the parking lot west of Lake Road shall be extended to the property line with the adjacent Ben Franklin Plumbing site to facilitate a future interconnection with that parking lot. The proposed driveway onto Lake Road may be constructed and may remain in use only until such time as the Ben Franklin Plumbing property provides, or is required to provide, a shared access driveway serving both properties. At that time, the separate driveway from Lake Road serving only 580 Lake Road will be removed or shared with the Ben Franklin Plumbing property, and the

parties shall exchange cross easements for the new shared driveway and a vehicular and pedestrian connection between the two parking lots. Such cross easements will be subject to review and approval by the Commission's attorney.

The plans shall note that the strip of land between the sidewalk along Lake Road and the road itself shall be an 8 foot grass buffer.

The preceding conditions are integral to this motion for approval in that without them, the application would have been in violation of the Zoning Regulations and the Commission would have had no choice but to deny it.

REQUIREMENTS PRIOR TO THE ISSUANCE OF A ZONING PERMIT PER SECTION 12.D OF THE ZONING REGULATIONS:

File final plans and associated documents with the Town Clerk in accordance with applicable regulations.

Clearing along the neighboring property shall be done so as to provide the requisite sightline and a sight line demonstration shall be submitted to the Andover Building and Land-Use Office for review and approval.

Applicant to provide the Andover Building and Land-Use Department with documentation of approval by the Department of Transportation to utilize existing culvert crossing Route 6.

DURING THE CONSTRUCTION PROCESS:

Prior to commencement of construction the applicant shall provide an anticipated construction schedule and participate in a pre-construction conference with town staff.

L.Hutchinson expressed concern about the provision for a shared driveway, stating that the Commission should mandate the shared driveway now since the applicants are reluctant to install a shared driveway.

J.Larson agreed there is a chance that Ben Franklin Plumbing does not submit an application to the PZC for review, which is when the Commission could require they complete the common driveway. Since the PZC cannot issue a variance, this is the best the Commission can do to have an application that meets the Regulation's requirements. The alternative is mandating the applicant moves the driveway 100' away from Ben Franklin Plumbing and closer to Route 6, which the Commission has safety concerns about.

M.Branse stated if Ben Franklin Plumbing comes to the PZC for an addition or a change of use, then this would bring the site into the PZC's jurisdiction. He suggested editing the conditions for approval to clarify "the separate driveway from Lake Road serving only 580 Lake Road will be removed **or shared with the Ben Franklin Plumbing property**, and the properties shall

exchange cross easements for the new shared driveway..." such that the 580 Lake Road driveway could stay, and the Ben Franklin Plumbing driveway would close, or vice versa to allow flexibility with what entrance can service both properties.

J.Larson asked what the challenges of a common driveway are. M.Branse stated common driveways are very common throughout the state especially for adjacent commercial properties, cross easements are standard and typical, and Garrett Homes LLC has experience navigating common driveways.

L.Hutchinson asked about the driveway cut on Route 6, and the ability for a tractor trailer truck to use the Lake Road entrance instead of the Route 6 entrance. The driveway to Ben Franklin Plumbing seems to be short, level, and uncomplicated. She reiterated her preference for as much traffic as possible to be controlled by the light. She asked if the two businesses share this driveway, could the applicant position the receiving dock on the east side of the building such that a tractor trailer truck would not need to pull around the front and to the right of the building, where there isn't enough room to maneuver.

M.Branse stated the public hearing is closed and the applicant did not approve an extension to reopen the public hearing, so the applicant can't answer her question.

S.Nelson stated Ben Franklin Plumbing isn't a retail establishment, so its driveway's traffic is minimal.

J.Larson asked if any Commissioner wants to include a condition of approval that the future tenant install a fence between the store and the Christmas tree farm. L.Hutchinson stated there is nothing objectionable about asking for this as a condition of approval. J.Larson agreed, and stated however he does not think it is something the Commission should include within the Conditions for Approval.

S.Nelson MOVED to accept the changes to the draft motion. S.England SECONDED. By roll call vote, MOTION CARRIED 5:0:0.

By roll call vote, the motion as amended CARRIED 4:1:0 (L.Hutchinson opposed).

M.Branse will email the amended Conditions for Approval to the Zoning Office.

4) APPROVAL OF MINUTES

April 18, 2022 Public Hearing and Regular Meeting Minutes

Public Hearing item 2 – page 3:

J.Larson stated these factors do not carry weight within this particular decision. **If the proposed site plan meets the PZC's regulations they have to approve it. If the Commission does not approve of the site plan and the time period for acting on the application is exceeded then it is automatically approved.**

Old Business item d – page 6:

J.Larson will send these proposed changes to Attorney Branse for review, and then J.Hallisey can send them to the Capital Region Council of Governments for review.

J.Larson MOVED to approve the minutes as amended. By roll call vote, MOTION CARRIED 5:0:0.

5) CORRESPONDENCE

Announced that Board Clerk Abbie Winter submitted her resignation and will stay with the Commission until July 25th.

J.Hallisey will begin working on getting someone on board.

6) NEXT REGULARLY SCHEDULED MEETING – May 16, 7:00 p.m.

7) ADJOURNMENT

S.Nelson MOVED to adjourn the meeting at 8:04 p.m. S.Person SECONDED. MOTION CARRIED unanimously.

Respectfully submitted by Abbie Winter,

Abbie Winter

Please see the minutes of subsequent meetings for the approval of these minutes and any corrections hereto.