

Town of Winchester
Planning Board
Minutes
12-17-18

Meeting opened: 7:00pm.

Members present: Mike Doherty (Chair), Suzanne Boisvert, Dean Beaman (alt), Gus Ruth (V. Chair), Herb Stephens (SR), Jordan Sharra, and Christy Davis. Kim Carl absent. Margaret Sharra is the Land Use Administrator (LUA).
Public: Dave Bergeron of Brickstone, Dan Berry of Global, Paul & Kathy Morehouse, Mike Coope, Kelly Dowd, Atty for Kulicks, Nicholas from VHB, Ben Kilanski, and Mike Tollett (Lt. of PD).

First order of business: The Chairman sits D. Beaman as an acting alternate. The board reviews the minutes of 11-19-18 for approval. **G. Ruth moves to approve, J. Sharra seconds. The vote is 6 yes.**

Second order of business: Member S. Boisvert arrives. The board reviews an application for a modification of a previous site plan approval of SS Baker Realty Co. LLC. This proposal is for two properties, one owned by SS Bakers Realty Co. LLC, map 20 lot 21 and the other owned by The Paul Morehouse Jr. Revocable Trust of 2017, map 20 lot 22. If the site plan is approved the applicant shall merge the two lots together. The LUA confirms all notices were sent and posted. The ZBA granted a Special Exception on 11/8/18 for the drive-thru window and the Conservation Commission approved the Sedimentation and Erosion Control plan on 11/14/18. The board will also need to approve the SEC plan.

The Chairman asks for all in the public to introduce themselves. Dave Bergeron is presenting the application for SS Bakers and Paul Morehouse, Jr.

D. Beaman moves to accept the application as complete and move into a public hearing, H. Stephens seconds. The vote is 7 yes.

Mr. Bergeron presents. He begins by explaining the long history of developing this lot into a convenience store w/ gas pumps and a Dunkin Donuts and of the site plan approval already in place. He shows each plan in the proposal and explains. There will now be 12 fueling stations. The parking spaces have increased to 22. The driveway on Main St. will move north 80ft from where the approval now stands, directly across from the southern entrance to Rite Aid. The building is slightly bigger than what has been approved, about 200sqft. There would be a longer que. The town sewer would now connect off Main Street, from where there is presently a house. That house shall be removed. They will utilize the present waterline brought on site. He explains the drainage and catch basins. All water will flow to a retention basin that is designed for 50 year storm event. A storm sepor system will be installed. Sediment as well as any gas and oil would be filtered through this. There will be a hooded outlet by the pumps.

He shows the erosion and utility details, including the phasing of construction. He has prepared a lighting plan, all LED's, down lighting/dark skies fixtures. The board sees the elevation/architectural plan, and the gas canopy plan with fire suppression.

Traffic report: The study looked at all 4 legs of the intersection and two driveways. It has been determined that there are 500-600 vehicles in the morning traffic and 1000 vehicles in the PM. Expect an increase of 5-10% because of the store. The intersection will continue to operate at the A-B range; A being excellent. There are already 2 lanes heading south. It is expected 80-90 vehicles in the AM to be entering or leaving the Main St entrance, and more in the PM.

S. Boisvert asks if it is standard to have entrances across from each other? Bergeron, yes or much further apart.

M. Doherty confirms there will be a 6ft high solid fence on the east side of the lot. He would also like to see false stone on the west side of the building that faces Main St, where the pickup window is. Mr. Bergeron said ok.

H. Stephens has concerns of big trucks parking on the side of Main St. After a discussion on who responsibility it is, Mr. Bergeron will ask the state for approval to erect no parking signs. The owner can't control who parks on the side of the road.

The LUA, as a resident asks if the west side facade that fronts Main Street could be spruced up such as false windows. This is an entrance way into downtown and we want it to look nice. Mr. Bergeron does not see a problem.

She also reminds the board the Sedimentation Erosion Control Plan must be approved by the board. What are the hours of operation? There is a recollection of 5am-10pm. After discussion the board decides to have the option of closing at midnight.

Kelly Dowd representing abutter Kulicks, asks if this is a new site plan or modification? He states RSA 674:44 does not offer the right of modification. The board asks the LUA her opinion. She believes the statute permits town the right to draft their own regulations based on the needs of the town while abiding by the statute. The statute gives the guidance. She asks the board to look at the town's SPR regs. The section on Scope of Review: Activities that require site plan review, Activities that do not, and Activities that will be reviewed only by the PB. She believes modifications are permitted but that is a board decision. Mr. Bergeron replies modification is common practice in many other municipalities.

Mr. Dowd informs the board that the PB of 2012 denied the application of SS Bakers, where in that application the building was 3652 sqft, then the board in 2013 approved an application with a smaller building of 3500 sqft, and now this board of 2018 is being asked to approve a building of 3712 sqft. He questions whether the board has the authority. Is this "two bites of the same apple"? Mr. Dowd presents his written opinions to the board.

Mr. Dowd introduces Nick from VHB. Nick was asked to do a peer review, by Mr. Dowd, of the traffic study. Nick is licensed in MA & NH and lives in Richmond, so he is familiar with the area. He submits his findings in writing to the board. In his professional opinion he believes there are flaws in the traffic study. The study shows no pedestrian consideration, no site distance calculations, there is not a reference to where the numbers are coming from. He refers to ITE LUC Code 937 and believes this does not meet the standards.

He explains a conflict point: The Main Street exit/entrance. He says there needs to be a turning lane for left turns and must bring the sidewalk to ADA standards.

Mr. Dowd states the application must show the calculated site distance, wants year around dense planting since there will be lighting and noise issues. He also questions the size of the buffer. He asks for the lighting to be off when not open. He says there are failures in the traffic study. Mr. Dowd said they do not oppose the application, they just want it better. D. Beaman states the residents want this and this application is better than the previous applications because the lot is larger and the other changes improve this application. Mr. Bergeron had planned on fixing the sidewalk if damaged during construction and planned to make it ADA accessible. There is a sidewalk around the road perimeter of the property and an interior sidewalk around 2 sides of the building. The LUA recommends a buffer on the North and west side of the property. She also confirms on the plans the 10ft buffer. SS Bakers owns the vacant lot on the north side and if they were to clear the lot then the development would be exposed. She suggests addressing a buffer there. It makes no sense for a dense buffer on the street sides. There will already be a 6ft high solid fence on the west side. Mr. Bergeron said the state requires a 400ft site distance for each entrance. He confirms on the plans the entrances meet or exceeds this requirement. C. Davis asks if there is a driveway permit approval from the state yet? Mr. Bergeron replies they have received a verbal approval but are waiting for it in writing. Lt. Tollett asks where the traffic from the pickup window will exit? It is expected the Warwick Road exit. Paul Morehouse, Jr. informs the board that presently there are 3 driveways onto Main Street from these two lots. The proposal brings the driveways down to one. Mike Coope asks if there can be no parking signs along Main Street to prevent parking of big trucks on the side of the road. Mr. Bergeron replied the state was asked in the past application to erect them. The State said no. He agreed though, to ask if the owners could get permission to erect the signs. They do have limited control over anyone parking on the side of the road. Mike Coope then asks if the board in fact can hear this application, referring to "second bite of the apple". The board asks the LUA to respond. She tries to explain the reasoning of this law. If someone submits an application and it was denied the same application cannot be approved in the future by the same or different board. In the SS Bakers case, from the first to the second application, the court agreed with the board that enough changes were made to determine the second application was materially different. She then explains in her opinion this third application is different from the first for the multiple reasons listed in the application (larger land area, moved driveway, etc) the board then can act on it. She then suggests for the board to look closely at our SP regs; changes and what does not require a new application.

Mike Coope asks about the road salt killing the trees along the road. Mr. Bergeron explains the tree placement is far enough away, on the other side of the side walk. The trees proposed are common for this type of use. He also

informs him the trees are set back from the entrances as not to impede site distance. Mr. Coope then asks if the board should ask town counsel about the SP statute. The LUA explains the difference between a statute and a regulation.

There are no other questions. The Chair suggests closing the hearing.

S. Boisvert moves to close the public hearing, J. Sharra seconds. The vote is 7 yes. 8:30pm.

Discussion: D. Beaman feels the board should consult with town counsel. There also appears to be other questions. The LUA suggests that if the board receives info from counsel that is made public at the next meeting and if Mr. Bergeron brings forth replies to Mr. Dowd's concerns then the board needs to reopen the public hearing so rebuttals to new information can be made. No one has left the room so the board can reopen the hearing.

S. Boisvert moves to reconsider the motion, D. Beaman seconds. The vote is 7 yes. D. Beaman moves to reopen the hearing, H. Stephens seconds. The vote is 7 yes.

Mr. Bergeron will bring back information for the next meeting to reply to Mr. Dowd's comments. Such as lights out after midnight, no parking signs, driveway permit and traffic numbers.

Mike Coope asks Dan Berry what is the intent of the Old bank building located on the Mr. Mike's property? Dan says the plan is for it to go back to the town.

J. Sharra moves to continue the hearing to 1/7/19 at 7pm, D. Beaman seconds. The vote is 7 yes.

The LUA will contact town counsel to set up the call for 6:30pm on the 7th.

Third order of business: Other business: The board reviews the draft proposed zoning amendments. The LUA wants to hold a public hearing on them 1/7/19. The board agrees. They are also in receipt of one petitioned warrant article that will be included.

The board is given information on excavation reclamation bonds for all gravel pits in town. The board agrees to a \$10,000 reclamation bond for Jay & Becky Roy new excavation permit.

Members will come in and review the SS Bakers files.

D. Beaman moves to adjourn, J. Sharra seconds. The vote is 7 yes.

Minutes respectfully submitted:

Margaret Sharra, LUA

Minutes approved by the board on:

Minutes signed by:

Mike Doherty, Chairman