

June 16, 2020

Planning Board
8 Newmarket Road
Durham, NH 03824

RE: *Continued Public Hearing - Mill Plaza Redevelopment. 7 Mill Road. Continued review of formal application for: 1) Site plan and 2) Conditional Use for mixed use redevelopment project and activity within the wetland and shoreland overlay districts...*

Topic of this letter: Waiver requests for landscaping plan

Greetings,

A quick note with apologies for not sending it earlier.

As you discuss Colonial Durham's request for site plan regulation waivers, I ask you to keep in mind the following quote from page 63 of the November 2019 "Planning Board in New Hampshire," published by the NH Office of Strategic Initiatives:

Waivers (RSA 674:36, II(n) and RSA 674:44, III(e))...The planning board may grant a waiver of a portion of its subdivision and site plan review regulations if it finds, by majority vote, that strict conformity with the regulation would pose an unnecessary hardship to the applicant and would not be contrary to the spirit and intent of the regulations. Alternately, a waiver may be approved if specific circumstances of the development or conditions of the land indicate that the waiver will properly carry out the spirit and intent of the regulations. The basis for granting a waiver shall be recorded in the planning board minutes.

My below comments pertain to the landscaping plan dated May 20, 2020, although if I remember correctly, at the June 10th meeting, Colonial Durham proposed a new parking lot arrangement to include a single large "island" that could accommodate large mature trees, a suggestion that appeared to be met with some enthusiasm. I'm not sure how you address waiver requests without considering this option.

It is my impression that the two requested waivers requested are prompted by a contractual arrangement between the applicant and its anchor tenant, Hannaford, in which Hannaford calls the shot about how many parking spaces must be provided and where. Therefore the Board must discuss just how much it wants to accommodate those constraints—which were perpetuated by the applicant renewing its lease with Hannaford—presumably while CDA contemplated a redevelopment, given the timing—that expires in 2059.

In other words: These are self-imposed constraints.

Those constraints should not be accommodated by the Planning Board unless it determines that doing so is in the best interest of the health, welfare, and/or safety of the community.

Reducing the building footprint is, to some of us, one obvious solution to many design flaws, including landscaping. Residents Nancy Lambert and Bob Russell and Commissioner Richard Kelley are among those who have recently raised the issue, although others have

also done so previously. As Bob noted at your last meeting, “If you want better landscaping, reduce the size of the buildings.”

Waiver request #1:

Section 5.8.11: ...All landscaped islands, peninsulas, and medians shall be a minimum of six feet in width and shall be separated from the parking area by adequate curbing or tire stops. ...Some islands shall be used to provide pedestrian walkways.

Comments:

- (1) As others have suggested, there are reasonable options, among them, lose a few parking spaces.
- (2) Perhaps I missed the *pedestrian walkways* in islands on the May 20 plan or in discussions at the meetings, but the requirement is for pedestrian safety and should not be waived. A six-foot width, as extensively discussed, cannot possibly accommodate mature trees, parked car overhangs, and safe pedestrian passage.
- (3) In his letter to the Planning Board dated February 12, 2020, Colonial Durham’s attorney Ari Pollack addressed a letter written by attorney Mark Puffer, dated February 5. In arguing the separateness of the CDA application and any development of a parking lot on Church Hill, Mr. Pollack noted: “The Mill Plaza requires no additional parking spaces for Town approval.” I am not sure what this means, but it would appear to me that it underscores the complete authority of the Planning Board to require however many parking spaces it determines appropriate for this site.

Waiver request #2:

Section 5.8.8 Foundation Planting Strip. There shall be a minimum 4 foot wide foundation planting strip between the building and any parking lot or driveway situated on the front or side of the building.

Comments:

- (1) The pragmatic elements of supermarket building operation—carriages and displays among them—may argue in favor of granting this waiver; although:
- (2) I would argue that the request be denied, and instead the requirement be taken seriously as an element of passive cooling: the heat island effect of a large expanse of asphalt and the radiant heat from the buildings could be offset by vegetation to provide customer’s comfort. Clearly care must be taken in designing the area in such a way as to accommodate sidewalk snow removal. Perhaps a partial landscaping strip could become part of the design and a waiver to that effect be considered.

Ancillary consideration: Shopping cart corrals

The previous point brings up the question of shopping cart/carriage corrals. If these corrals were provided, less storage area immediately outside the building might be needed. Other Hannaford locations—and indeed other supermarkets now provide this convenience for customers. Why shouldn’t the Board require the same for the Mill Plaza?

Sincerely yours,

Robin