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Town Planner's Review
Wednesday, January 13, 2021

XIII. **19-21 Main Street – Parking Lot.** *Preliminary discussion about conditional use criteria related to the project and discussion with Steve Pernaw, traffic engineer who prepared traffic report.* Formal application for site plan and conditional use for parking lot on four lots and reconfiguration of the entrance. Toomerfs, LLC c/o Pete Murphy and Tim Murphy, property owners. Mike Sievert, engineer. Robbi Woodburn, Landscape Architect. Map 5, Lots 1-9, 1-10, 1-15, and 1-16. Church Hill District.

- I recommend that the board discuss the conditional use criteria, ask questions to Steve Pernaw, and request an extension.

Please note the following:

Traffic impacts. I would suggest discussing traffic impacts first so that Steve Pernaw need not wait longer. The board can have an open discussion with Mr. Pernaw but we cannot accept input from any other parties since the public hearing was continued to January 27 and this is not a public hearing.

Given the potential impacts of this project on Main Street in the middle of fairly congested Church Hill, I suggest that more information be provided beyond the traffic study to give the Planning Board as clear a picture as possible of the likely impacts – at the driveway, at the Main Street/Route 108 intersection, and the Main Street/Madbury Road intersection.

The traffic model should be very useful in this regard. The Planning Board can require use of the model at its discretion per the Site Plan Regulations, or another study which would be paid by the applicant. The model can provide a moving simulation showing stacking, waiting, and movement of vehicles. The consultant said it is most effective if the model is updated. It has been used rarely. Since there has been little significant development in the core downtown for a number of years, perhaps just a simple update of background traffic volumes could be incorporated. If there is any significant cost for an update, it is questionable whether the applicant should be expected to pay for an update.

Extension for site plan review. I have sent a few emails about this. The Planning Board must take action on an application within 65 days of acceptance unless an extension or waiver is granted. Typically, there is no discussion of an extension when a project takes multiple months to review, as an acceptance of the time frame is assumed if the applicant does not object. For this project, the applicant had expressed concerns about the timeframe so I requested an extension beyond the 65 days. The applicant suggested this request come from the Planning Board. Presumably, if the board is not ready to take action and an applicant is not willing to grant an extension, the application would need to be denied due to

an inability to properly determine if the zoning and site plan requirements are being met. Another option would be for the Planning Board to request an extension from the Town Council, but that extension cannot exceed 90 days.

Conditional use discussion. The Planning Board set up this meeting for the purpose of discussing how the conditional use criteria apply to the project and to speak with Steve Pernaw, the applicant's consulting traffic engineer. The public hearing was continued to January 27. Therefore, this meeting is not a public hearing. *The board cannot accept any input from the applicant nor the public, other than from Steve Pernaw and in response to a request for an extension, below.*

For large complex projects that are allowed by conditional use, we have seen that it can be beneficial to talk about the conditional use criteria early so that they are not reviewed for the first time during final deliberations. If there are potential issues related to the criteria this early discussion will give the applicant an opportunity to address them prior to final deliberations.

It would be helpful if every Planning Board member, including alternates, could review the eight criteria and be prepared to share comments at the meeting. The board could discuss the criteria in general, overall, or discuss each one individually. Either way, the comments should be fairly general and it is understood that concerns expressed by members are subject to change as the plan may evolve further.

The application is to create a parking lot as a principal use, meaning that it could be used by any party (unless the board included any limitations as part of the conditional use). This use is allowed by conditional use. A parking lot that exclusively serves the users of a building on site is an accessory use and is allowed by right.

Here are the eight criteria. All of them must be met for the granting of a conditional use.

175-23. Approval Criteria.

...C. ***Criteria Required for Consideration of a Conditional Use Permit.*** A conditional use permit shall be granted only if the Planning Board determines that the proposal conforms to all of the following conditional use permit criteria (except for specific criteria that are deemed by the Planning Board to be not pertinent to the application):

1. **Site suitability:** The site is suitable for the proposed use. This includes:
 - a. Adequate vehicular and pedestrian access for the intended use.
 - b. The availability of adequate public services to serve the intended use including emergency services, pedestrian facilities, schools, and other municipal services.
 - c. The absence of environmental constraints (floodplain, steep slope, etc.) or development of a plan to substantially mitigate the impacts of those constraints.
 - d. The availability of appropriate utilities to serve the intended use including water, sewage disposal, stormwater disposal, electricity, and similar utilities.

2. External impacts: The external impacts of the proposed use on abutting properties and the neighborhood shall be no greater than the impacts of adjacent existing uses or other uses permitted in the zone. This shall include, but not be limited to, traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare. In addition, the location, nature, design, and height of the structure and its appurtenances, its scale with reference to its surroundings, and the nature and intensity of the use, shall not have an adverse effect on the surrounding environment nor discourage the appropriate and orderly development and use of land and buildings in the neighborhood.
3. Character of the site development: The proposed layout and design of the site shall not be incompatible with the established character of the neighborhood and shall mitigate any external impacts of the use on the neighborhood. This shall include, but not be limited to, the relationship of the building to the street, the amount, location, and screening of off-street parking, the treatment of yards and setbacks, the buffering of adjacent properties, and provisions for vehicular and pedestrian access to and within the site.
4. Character of the buildings and structures: The design of any new buildings or structures and the modification of existing buildings or structures on the site shall not be incompatible with the established character of the neighborhood. This shall include, but not be limited to, the scale, height, and massing of the building or structure, the roof line, the architectural treatment of the front or street elevation, the location of the principal entrance, and the material and colors proposed to be used.
5. Preservation of natural, cultural, historic, and scenic resources: The proposed use of the site, including all related development activities, shall preserve identified natural, cultural, historic, and scenic resources on the site and shall not degrade such identified resources on abutting properties. This shall include, but not be limited to, identified wetlands, floodplains, significant wildlife habitat, stonewalls, mature tree lines, cemeteries, graveyards, designated historic buildings or sites, scenic views, and viewsheds.
6. Impact on property values: The proposed use will not cause or contribute to a significant decline in property values of adjacent properties.
7. Availability of Public Services & Facilities: Adequate and lawful facilities or arrangements for sewage disposal, solid waste disposal, water supply, utilities, drainage, and other necessary public or private services, are approved or assured, to the end that the use will be capable of proper operation. In addition, it must be determined that these services will not cause excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police protection, fire protection, and schools.
8. Fiscal impacts: The proposed use will not have a negative fiscal impact on the Town unless the Planning Board determines that there are other positive community impacts that off-set the negative fiscal aspects of the proposed use. The Planning Board's decision shall be based upon an analysis of the fiscal impact of the project on the town. The Planning Board may commission, at the applicant's expense, an independent analysis of the fiscal impact of the project on the town.