



**Planning Board Meeting**  
Monday, February 13, 2012  
Council Chambers, City Hall at 7:00 pm

**Minutes**  
**Approved February 27, 2012**

**I. Roll Call**

**Present:** Peter Guillette, Richard Wahrlich, Bruce Kolenda, William Greenrose, Stephen Cutts, James Neilsen, IV, Kenneth Harlow (alt), Russell Fowler (alt), Ruben Ramirez (alt),

**Absent:** Andrew Austin (alt)

**City Staff:** Tracey Hutton, City Planner; Kelly LeBlanc, Administrative Assistant

**II. Review of Minutes January 9, 2012**

**Motion:** To approve minutes from January 9, 2012

**Made By:** Mr. Kolenda

**Second:** Mr. Harlow

**Vote:** Unanimous

**III. New Business**

- **(PB2012-0004) Donald Chabot, Claremont, NH.** Site Plan waiver request under Appendix C Article VII of the City Code to construct establish an animal adoption facility. Property Location: **8 Tremont Street**, Tax Map 120, Lot 47, Zoning District B-1

The building is located at 8 Tremont Street but the frontage is considered 14 Tremont Street. Each storefront has its own address number.

The applicant proposed an animal adoption facility (or animal shelter) for felines at the above location. On February 6, 2012 the applicant began its review with the Zoning Board of Adjustment for a variance from the permitted uses in this district. This review will continue March 5, 2012. State law does not require Zoning Board approval before going to the Planning Board.

While an adoption facility may seem analogous to some retail (that being the previous use), like a pet shop, the Planning and Development Department felt it was more analogous to a kennel, which does not anticipate felines. For that reason, the variance for a use, not really contemplated in the City Code, was applied for.

There will be no expansion of the building and there is no existing site plan on file. The building is lot line to lot line and the majority of the change will be to the interior of the building.

Danielle Morse, Vice President of the Sullivan County Humane Society, would like to rent a space for approximately a year to see how the business will go. They anticipate the need and success will be great in this area but want to be certain. The Donald Chabot, owner of the building, is willing to let the Sullivan County Humane Society rent this space and all animals in the building. Only felines will be permitted. The Humane Society will require some interior renovations.

Mr. Cutts asked for the number of cats allowed on premises. Ms. Morse stated the Zoning Board had the same question and they are working on the building layout to solidify the number. They currently estimate approximately 20 felines.

Mr. Greenrose asked if medical treatment for the cats would be provided at this facility. Ms. Morse stated that several veterinarians will be working with the Humane Society but treatment would be at their clinic, not the proposed adoption facility. No animals will be adopted that are not spayed or neutered and all felines must have a clean bill of health. No onsite euthanizing will occur.

Mr. Fowler stated that there was previously a pet shop at this location. He would like to know if there is an association with Catherine Sullivan. Ms. Morse stated they are not associated. Mr. Fowler stated that there was a building on Old Newport Road designated as an animal shelter. Ms. Morse said they were working with Mr. Wentzel, owner, but there was no agreement at present.

Chair Guillette asked about the hours of operation. Ms. Morse stated they will be open to the public approximately 3 to 4 days a week from approximately 10:00AM until 2:00PM. It should be noted that the shelter will be staffed 7 days a week but not open to the public 7 days a week.

### **Open Public Hearing**

No Abutters Present

### **Close Public Hearing**

**Motion:** to allow the waiver as written

**Made By:** Mr. Greenrose

**Second:** Mr. Ramirez

**Vote:** Unanimous

- **(PB2012-0005) Danielle Weisner, Claremont, NH.** Site Plan under Appendix C Article II of the City Code to establish a trash disposal business (no trash on site). Property Location: **165 Sugar River Drive**, Tax Map 159, Lot 1, Zoning District RR.

The applicant seeks site plan approval to conduct a waste disposal service business on the above site in accordance with the variance granted for the use on July 5, 2005. Since the use of this property is now non-residential and also not a home occupation a site plan review is required.

The current plan for this site is not the same as the Zoning Board received in the summer of 2011. The Planning Board will need to grant site plan approval and incorporate Zoning Board conditions.

The operation has not changed. What has changed is that the business was a home occupation under Daniele Weisner's father, but because the business runs with the person and not land, when Mr. Weisner passed away, Danielle was required to apply for a Variance.

The site plan approval to operate the business and address the screening needs would be evaluated by the Planning Board. The proposed screening would improve the aesthetics of the property and the neighbors view.

Mr. Greenrose asked if the ZBA identified specific areas to be screened and what type of screening was proposed. Ms. Hutton stated that the ZBA did not identify specifics as this is the determination of the Planning Board. Originally the applicant planned to expand the dumpster storage area and modify the drainage on site. They decided not to do this and so the site work and screening does not need to be as extensive.

Tom Dombrowski, surveyor, and Erin Darrow, P.E., Right Angle Engineering, were present on behalf of owner Danielle Weisner. The landscaping is provided to be a visual buffer to the west of the existing facility and the view from Sugar River Drive. There is an existing wetland pond area and there will be trees on the west side of the pond to provide a visual barrier to be consistent with the site plan regulations. A temporary fence is proposed as the trees are maturing. The tree types will be Evergreens. In addition to the trees, day lilies will be planted on the side slope.

Chair Guillette confirmed that the trees will block the dumpsters. Ms. Darrow stated that the trees are intended to provide a permanent visual barrier. Mr. Greenrose asked the type of fence. Ms. Darrow stated it be a stockade wooden 6ft fence and it will take approximately 3-4 years for the trees to reach maturity (saplings will be planted). Mr. Neilsen asked if the fence needed to be removed at any point if it remains in good condition and the Weisner's want to keep it. Ms. Darrow does not believe it is required to take down the fence if everyone is satisfied with it. Mr. Greenrose inquired about the depth of the buffer. Ms. Darrow stated the buffer will be, at it's deepest, approximately 40 feet. Mr. Cutts inquired if there will be multiple species of trees in the case that one suffers a blight? Ms. Darrow stated that, yes, there will be multiple species.

Ms. Hutton stated it was the Planning and Development office that required 1 tree per 80SF and also vegetative stalk not less than 2 inches in diameter at breast height.

Mr. Neilsen asked about taking the trees off site and if there are not enough of the 2 inch stalk. What is the drawback of just taking trees off the site? Ms. Hutton stated the drawback would be the time needed for effective screening.

Mr. Dombrowski stated there are a lot of small pines growing on the lot. They might only be an inch and a half of diameter but they are already 8 to 10 feet high. A 2 inch pine could be difficult to move and not lose a portion of the roots.

Chair Guillette stated the goal is to get coverage for the aesthetics of the neighbors.

Mr. Fowler would like to know what is prompting all of the site plan review for this existing business. Mr. Dombrowski stated that this was a criteria required by the City. Ms. Hutton stated that this was once a home occupation and was deemed no longer a home occupation in 2010. Continuing with this a Variance was received for a commercial use on the site. Any non residential use that is no longer a home occupation needs this step. The variance eliminated grandfathering.

Mr. Neilsen asked if it can be required to have all transplants a minimum of four feet in height.

### **Open Public Hearing**

Francine & Stephen Nemkovich, abutters at 143 Sugar River Drive, were present for this application. They are concerned that their property will not be covered by the tree screening. They stated that initially the plan was to do something about the water forced on their property. Ms. Hutton stated that originally the ZBA plan included drainage on the site. The applicant has

chosen not to continue this proposal.

The Nemkovichs' stated that the winter run off comes up to their home and breaches their above ground pool. If it gets worse, it will wash out the bottom of the pool. The brook on the applicants' property needs to be excavated out which would stop the water. The original plan stated a berm would be built to reroute the water flow. Mr. Cutts asked about the filling. Ms. Nemkovich stated that they filled in the pond to the degree that the water has no where to go and it is forcing water onto their property. They built the bank out and while that build-out has stopped the problem is already there. Mr. Ramirez asked if they are the only abutter on that side. Ms. Nemkovich stated the Charland's also experience this problem. Mr. Nemkovitch stated Gary Weisner used to plow/clear out the area before he passed away but they do not have the money to hire someone to do this now.

Mr. Dombrowski asked about Gary coming down to shovel snow and ice. Ms. Nemkovich stated it is not just the brook, there is less capacity then there used to be.

### **Close Public Hearing**

Mr. Greenrose asked why the plan changed. Ms. Hutton stated they decided not to expand the dumpster storage area which would have required a storm water upgrade. They have decided not to expand and thus do not have to change the storm water. Mr. Greenrose confirmed that the remediation of the drainage was not a result of a prior condition but of the expansion.

Mr. Cutts asked about the brook and if there is an existing problem from what was already done. Mr. Wharlich asked if there are designated wetlands around the pond area. Ms. Darrow stated it was formally a gravel pit and there is delineated wetland area there. Evaluation was done and in the 1930s/40s the pond did not exist at that point. There is a stream and it does flood but based on the site evaluations during heavy rainfall, over topping of the pond area causes additional flows. There may have been fill, but the fill would have had a very minimal impact. Over top has been exhibited over the past storms. The brook is a road side ditch upstream and it just floods over. When the gravel pit was excavated years ago, it started pooling. The brook is the primary source of flooding. No expansion of site or site change is planned.

Mr. Wharlich asked if the brook has been altered. Ms. Darrow stated the stream has not been altered by Gary's Disposal. It is a Class II stream therefore it would be difficult to dredge it out as it is a major stream. A berm would not address the flooding problems.

Mr. Dombrowski took a look at the area a few weeks ago during a storm and the pond was rising but there was not enough of a flood to bring up the contour. The bottom of the bed of the brook is getting higher. The flooding is from the brook and not the pond area.

Mr. Neilsen stated that it if was already an issue in this Wetlands area the state would want the water to feed the wetlands so the state would not be looking to increase the water exiting out.

Mr. Ramirez asked about the berm. Ms. Darrow stated that this was taken off the table and it would only push the problem down stream. The berm could cause a larger problem then it would solve. The day lilies do well in dry and saturated conditions and prevent/slow some of the drainage.

Mr. Fowler asked if it is possible to dig the pond back out to its original state. Ms. Darrow informed the board that the original state had no hole (gravel pit). Mr. Fowler stated that the only solution is to bring it back to the original state.

Mr. Cutts stated he doesn't think dredging the brook is the answer. If there is a problem since things have been altered then this is the concern. Ms. Darrow believes that there was a problem before there was any filling.

Mr. Wharlich inquired about the proposed plan on the expansion and water issue. Ms. Darrow stated that the flow from the brook to pond would be closed off and there would be new grading in place with a 1-2 foot berm to mitigate water flow and overtopping.

Mr. Neilsen reiterated that the only time the pond overflows is when the brook has already flooded. The stream banks will always be an issue. How can the board make a request from a plan that is no longer going to happen?

Mr. Nemkovich stated the brook seeps from the brook under the road on a regular basis. His property does not have a brook on site so any of the water seeps through the roadway and comes onto his property via the Weisner property. Cement/dirt, etc was used as fill by Gary and he was required to excavate when the wetlands were designated.

Mr. Cutts confirmed that this problem did not exist 8-10 years ago. Mr. Nemkovich stated Gary Weisner took care of the growth and excavated the fill. Mrs. Nemkovitch stated they now live in a flood zone.

Mr. Guillette stated that the ZBA approved the use of the property as a non ... Mr. Fowler recommends the board send the plan back for further review. Mr. Greenrose stated the water issue is one thing, but the line of trees which is intended to mediate their line of view does not cover the view.

Ms. Darrow stated that if you look at the existing conditions plan and the elevations of the stream to their property, the SE corner of the property shows a 556 line and a smaller seasonal pond where the water seeps down and reaches the pond. What the abutter is discussing is that the brook overtops, still at a 556 elevation, over the banks. If a berm is built along the stream, the course of natural water flow will change and the stream could undermine it. The issue is largely nature. Mr. Wahrlich also stated that if you go to a pond/stream with an excavator now it is a different issue than 10 years ago.

Chair Guillette suggests the board conducts a site visit for deeper understanding. Tabling the application was recommended.

Mr. Cutts agrees to the site visit. Mr. Greenrose agrees with looking at the property but he is not an expert and inquired about getting an expert opinion to get to the root of what happened.

Ms. Hutton stated that this application, prior to the ZBA and PB, had been in front of Technical Review with two engineers (Public Works Director and the Planning and Development Project Manager). It can be requested that one of the two engineers join the group. Ms. Darrow stated she can check with Danielle Weisner, owner, and Jonathan Sisson, Wetland Scientist, to assure they can be available for this application visit. This stream is a roadside ditch upstream with manmade influences.

Mr. Fowler stated that east of the property there is a horseshoe of mobile homes. Could this impact the water? Ms. Darrow stated that this causes the increase of water flow and the natural stream which is the road side ditch. This mobile home park water flows into the ditch that flows into the stream.

Mr. Fowler stated that he is in favor of tabling the application until a site visit.

**Motion:** To table the application until a site visit with Mr. J. Sisson and Mr. Temple  
**Made By:** Mr. Cutts    **Second:** Mr. Ramirez    **Vote:** Unanimous

Mr. Nemkovich stated the board can also go to his property to view the concerns.

#### **IV. Reports from Boards and Commissions**

Mr. Cutts will serve on the Conservation Commission and Chair Guillette on the Historic District Commission.

#### **V. Other**

Mr. Fowler would like to know the board position of reopening an approved site plan. Arrowhead Motors is presenting a continued concern and Mr. Fowler stated that the corner had to be left open so that nothing would act as a sight impediment on the corner of Moody & Washington St. Can the board re look at approved site plans? Would like it investigated how the board reevaluates a site plan once it is approved. Chair Guillette stated he is uncertain if it can be reopened and would like to visit the Planning & Development Office and examine the plans that he signed.

#### **VI. Correspondence**

#### **VII. Adjournment**

**Motion:** To Adjourn  
**Made By:** Mr. Greenrose    **Second:** Mr. Neilsen    **Vote:** Unanimous

Adjourned at 8:42 PM  
Respectfully Submitted, Kelly LeBlanc