

MINUTES
TOWN OF TOPSHAM
PLANNING BOARD MEETING
MARCH 15, 2011, 7:00 P.M.

MEMBERS PRESENT: Donald Spann, Chairman
Ronald Bisson
Stephen Mathieu
Jay Prindall
Bruce Van Note

MEMBERS ABSENT: Michael Colleran and Scott Libby.

STAFF PRESENT: Planning Director, Rich Roedner, was present representing the Planning Staff.

A meeting of the Topsham, Maine Planning Board was held on Tuesday, March 15, 2011 at the Municipal Building at 100 Main Street, Topsham, Maine.

1. **CALL TO ORDER AND ROLL CALL**

Chairman Spann called the meeting to order at 7:00 p.m. and asked the recording secretary to conduct the roll call. Roll call was conducted and it was noted that all members were present except for Michael Colleran and Scott Libby, both of whom had been excused.

2. **MINUTES FROM THE JANUARY 4, 2011 AND MARCH 1, 2011 MEETINGS**

Motion was made by Mr. Mathieu, seconded by Mr. Bisson, and it was unanimously

VOTED

To approve the minutes of the January 4, 2011 and March 1, 2011 meetings, as written.

3. **THE TOPSHAM PLANNING BOARD WILL HEAR ALL COMMENTS AND CONCERNS ON THE SITE PLAN REVIEW AND A CONDITIONAL USE PERMIT FOR THE PROPOSED RELOCATION OF LEE TOYOTA AND THE REDEVELOPMENT OF THE EXISTING SITE TO A 2-STORY 29,950 S.F. AUTO DEALERSHIP LOCATED AT 113-115 MAIN STREET, TAX MAP R04, LOTS 25A AND 21.**

Chairman Spann read Agenda Item No. 3. Mr. Roedner noted a clarification that the "redevelopment of the existing site" in the wording of Item 3 means the redevelopment of the former Pine State Safety building and not the current Toyota building. Auto Sales is a Conditional Use in the VC Zone.

Kevin Clark, from Sitelines, represented the applicant. Mr. Clark noted that the applicant, Adam Lee (WITT, LLC & Lee Auto Malls), was present as was Pete Lebish, Market Planning Manager for Toyota and John Limon, National Dealer Facilities Field Manager for Toyota.

Mr. Clark reviewed the proposed site layout plan and reviewed the proposed 405 parking spaces, 29 customer spaces, 13 employee spaces, 155 display spaces and 205 storage spaces. The impervious area consists of 3.04 acres of existing impervious areas and 4.38 acres of proposed impervious areas calling for 1.34 acres of net impervious area.

The proposed building will encompass the existing commercial structure on the site. It has been expanded towards Main Street, bringing the structure closer to conformance with the minimum setback of the zone of 25-feet. The proposed expansion will add significant height to the structure, nearing the 35-foot minimum. A second floor within a portion of the building will support corporate and administrative offices. A 6-foot sidewalk is now shown along the front of the building to allow for pedestrian access to the site. Zero lot lines have been established through the center of the building in order to allow for the 29,950 square foot footprint.

In order to satisfy the Fire Chief's concerns listed in his memo dated March 11, 2011, a reinforced turf area will be designed side of the 24-foot lane under the canopy to accommodate emergency vehicles safely.

Mr. Clark distributed a color rendering showing the proposed building designed by the Curtis Architectural Group, Newton, Massachusetts and also a sheet showing elevations of the building. It was noted that the brown bricks shown in the rendering will be replaced by appropriate bricks for the New England area.

It was noted that Tom Saucier is still working on the stormwater review. The report will be ready the next meeting this comes before the board.

Regarding stormwater runoff, the total developed area of the project will trigger review under the Maine Department of Environmental Protection, Site Location of Development Act and all impervious areas of the site will be captured.

There was a discussion on the stream in the gully on the property which does not appear on any maps. The property is in the Stream Protection Zone. Mr. Clark said the applicant will ask the Board to allow up to a 30% increase to expand the non-conforming building to be able to increase the impervious area. It was noted that staff and the DEP is not comfortable with the stream that is not mapped and considers it an urban impaired watershed. The Board agreed they have no issues with the building, its size or setbacks as presented.

The Board asked the applicant to be more clear on the various type of lighting proposed and said that none of the lights can be angled above 90 degrees as currently shown on the plan. Mr. Clark said there are areas where the lighting exceeds ordinance limits using green filters and a waiver may be requested.

Mr. Clark asked for feedback from the Board on the style of architecture of the building. Board members said it was more visually pleasing and significantly improved over that which was first presented and said it looked like a typical New England office building.

It was noted that Kyle Rosenberg, the Town's Tree Warden, is reviewing the Landscaping Plan developed by Frank Cushing, RLA, and will provide written comment. Initial comments were that the code requires trees to be planted throughout the parking area - one tree per 14 parking spaces. (175-10.B.4) 175-10.B.6 requires that street trees be planted in each parking end cap. The applicant will request a waiver so they won't have to plant trees where the vehicles are displayed and said they will ask the Board to be able to plant the trees in the front of the building.

Following receipt of questions and answers between the Board and applicant, the Public Hearing was declared open. There were no comments or concerns expressed from members of the public. It was agreed to keep the Public Hearing open on the Site Plan Review until final reports are in and the Board moved to Finding of Facts.

FINDING OF FACTS

CONDITIONAL USE

Under Ordinance Section 225-67.A, the following conclusions were reached:

- 1. The use is compatible with and similar to the general categories and uses of neighboring properties.**

The site is abutted by multi-lane highways on the west and south, a Central Maine Power Company transmission line on the North, with SAD 75 bus garage and Mt. Ararat High School athletic fields beyond the power lines, as well as an undeveloped portion of The Highland green development to the east. There are currently three auto dealerships located within this zone just south of the Route 201/Route 196 intersection. Therefore, the Board was in unanimous agreement that the use is compatible with and similar to the general categories of uses of neighboring properties.

- 2. The use is compatible with the Comprehensive Plan and the anticipated future development of the neighborhood.**

The property was recently rezoned in accordance with the Comprehensive Plan and the VC Zone includes Auto Sales as a Conditional Use, therefore meeting #2.

- 3. Anticipated traffic to and from the proposed operation will not cause an adverse negative impact on the neighborhood surrounding the proposal.**

The Traffic Impact Study prepared by Maine Traffic Resources (Diane Morabito, P.E.) indicates that the project will create no negative impacts on the neighborhood surrounding the site.

- 4. There will be no noise, dust, odor, vibration or smoke generated by the use that will adversely affect neighboring properties or the Town in general.**

The Board was in agreement that, after construction is completed, there will be no dust, odor, vibration or smoke generated from the operation and that noise associated with vehicle repair will occur inside the building.

- 5. The physical characteristics of the site, including location, slopes, soils, drainage and vegetative cover are suitable for the proposed use.**

The Board was in agreement that the landscaping and design plans will actually improve the physical characteristics of the site and that the site is suitable for the proposed use.

- 6. The use will not constitute a public or private nuisance.**

The Board was in agreement that the use will operate during normal business hours and has demonstrated to be a good neighbor during many years of operation at its current location.

- 7. Any other requirements and applicable provisions of the Code, as deemed necessary, are met.**

The Board was in agreement that all applicable provisions of the Code are met.

Shoreland Zoning – Stream Protection

Topsham's Zoning Ordinance, Chapter 225-19, Shoreland Zoning, creates a 75-foot Stream Protection District from each side of a stream. This includes mapped and unmapped streams. Since this language was adopted 2 years ago, this is the first application of the provision for regulating unmapped streams. The language we adopted is more stringent than the DEP required Minimum Shoreland Zoning requirements for Stream Protection Districts, and uses a more stringent definition of stream. Our existing Shoreland Zoning Map does not show a stream in this location, but rather it shows one that barely gets across Route 196 from the south side.

The applicant was aware of the Natural Resource Protection Act issues, and was up front about them at Sketch Plan review. The applicant checked our Shoreland Zoning Ordinance and our Shoreland Zoning Map and saw no mapped reference or written reference that would affect his parcel from a Shoreland Zoning standpoint.

A reasonably prudent applicant should be able to find all standards that apply to a particular site with relative ease, which is what the applicant here has done. To be fair and to ameliorate the confusion in our ordinance about when and where Stream Protection standards apply, and under the understanding that this is Planning Board issue to interpret, we find that the applicant has made every attempt to adequately address the Stream Protection standards.

Further, the applicant is proposing to develop a site that is already non-conforming, based on the fact that the unmapped stream is Stream Protection, and that the proposed use will be no more non-conforming than what is present, as the setback to the stream will be no less than it currently is.

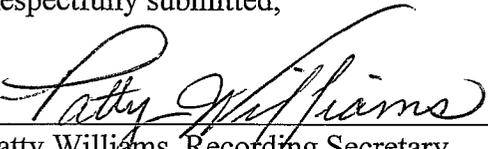
5. ADJOURN

Motion was made by Mr. Mathieu, seconded by Mr. Bisson, and it was unanimously

VOTED

To adjourn the meeting at 8:25 p.m. and to move into a Workshop Session to discuss Route 196 Zoning.

Respectfully submitted,



Patty Williams, Recording Secretary