

**Town of Northwood
Planning Board Meeting
June 16, 2021**

Case heard during this meeting:

Case 19-12 Michael Sullivan (Aroma Joes) Board deliberations only; no public input.

PRESENT: Mr. Timothy Jandebour (regular member), Mr. Hal Kreider (selectmen's representative), Mr. Joseph McCaffrey (regular member), Ms. Betty Smith (regular member), Mr. Robert Strobel (alternate)

TOWN STAFF PRESENT: Town Planner James Burdin, and Land Use Specialist Linda Smith

Staff asked the Board to come to order at 6:30. Due to the timing of this meeting after Town Meeting, election of officers for 2021 has not yet occurred and no previously elected officer is present as a regular member. The first order of business should be selection of a Chair Pro Temp for tonight's meeting.

Voting designation: Mr. Jandebour, Mr. Kreider, Mr. McCaffrey, Ms. B Smith

Motion by Mr. Jandebour to appoint Ms. B. Smith as Chair Pro Temp for tonight's meeting, second by Mr. Kreider. Ms. B. Smith does not accept.

Motion by Ms. B. Smith to appoint Mr. Jandebour as Chair Pro Temp for tonight's meeting, second by Mr. Kreider. Mr. Jandebour accepts. Discussion ensued. **Motion passes 4-0**

Mr. Jandebour appointed Mr. Strobel as an alternate to be part of the voting designation for this case. Mr. Jandebour recognized Mr. Strobel to preside as Chair Pro Temp for the remainder of the meeting.

Voting designation: Ms. B Smith, Mr. Jandebour, Mr. Kreider, Mr. McCaffrey, Mr. Strobel (chair pro temp)

Case 19-12 Michael Sullivan (Aroma Joes) 8 Bow Lake Road Map 222 Lot 61

Deliberation/discussion topics

Screening/buffer zone: Chair Strobel stated that his opinion is that they meet the regulations in a combination of a 20-foot-wide strip of existing fencing, and landscaping and trees. The regulation does say the word "or"; Vegetative buffer or fencing. In this case there is a combination of both of those. Mr. Jandebour stated that he thinks its quite clear and the applicant has done a good job with the plan. Discussion is held on the adequacy of the screening. Mr. Kreider stated that he wondered if the break in the screening causes headlights from cars leaving the site to create a nuisance to the abutter. Mr. Burdin stated that the regulation states that major site plan landscaping requirements are on page 46, under "required improvements" it states that a landscaped area serving as a buffer zone shall be

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required wherever commercial or industrial development abuts an adjacent residential property, every development shall include landscaping to enhance the appearance of structures, to screen parking and storage areas and waste disposal facilities to improve the visual character of the immediate area. Every site developed along Route 4, 43, 202, 202A, 9 and 107 shall plant street trees along the frontage of road at intervals not to exceed 40 feet. The trees shall be a minimum of 3 in caliber at a point 6 inches on top of the root ball, and shall be of a suitable hardwood species. Preservation of existing street trees shall be encouraged and existing trees shall be substituted for new trees wherever possible. No pavement shall be placed along the drip line of existing trees in order to protect the trees. Protective barriers shall be installed around each plant and or group of plants that are to remain on site, for trees on the edge of construction areas no more than 25% of the area within the tree line shall be disturbed. Landscaping around buildings shall be provided to buffer parking areas, provide foundation, planting to soften large expanses of wall along roof line. K1.4 Paragraph one speaks specifically to buffer zone requirements. A buffer zone shall consist of a strip of land at least 20 feet wide, densely planted or having equivalent natural growth with shrubs or trees at least 4 feet in height at the time of planting, of a type that will form a year-round dense green at least 6 feet high within 3 years; or a wall barrier or a fence of uniform appearance 6 feet high and extending to within 6 inches of ground level. For all landscaping areas, shade trees shall be planted at intervals no more than 40 feet apart, and shrubs, perennials and ground cover shall be planted among the trees a combination of evergreen and deciduous plantings are encouraged. A wall barrier or fence extending 6 feet high and extending to within 6 inches of ground level may be used in conjunction with plant materials. All buffer materials must be maintained as an integral part of the landscape. Screening of unsightly features: Provisions shall be made to screen unsightly features, for example, refuse, material storage, waste disposal areas, etc. by blocking or minimizing the view of such features. Berms and fences may be acceptable in conjunction with landscaping elements. Mr. Kreider stated that he didn't hear anything about breaks in the regulations. He stated that he understands that people need to get in and out of the property, if the entrance to this was on Route 4, he wouldn't be asking this question. He stated that he has a concern, because if they allow breaks, then the lights will shine right on to abutter's property. Without a buffer, it can cause a problem.

Sidewalks: Chair Strobel stated that the sidewalk has been redesigned twice, and the Board also denied a waiver request for the sidewalk. Mr. Jandebaur stated that he's concerned about the liability if someone were to slip and fall would fall on the Town. It's his understanding that the Town is liable if something happens. He also asked who is responsible for the maintenance of the sidewalk. Would that fall on the Town? Mr. Jandebaur stated that the Select Board has clearly stated that they will not clear sidewalks, consequently, there could be issues. Mr. McCaffery stated that there is a

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need for sidewalks for the safety of the school kids who will most likely be the ones using these sidewalks. Chair Strobel stated that there is a concern over maintenance, but maintenance is not part of their development ordinance. Discussion continues on the proposed sidewalks including liability and responsibility for maintenance; the safety of pedestrians using the sidewalks, and particularly pedestrians crossing the intersection of Bow Lake Road to go to the site. The Board agreed that the sidewalk plan submitted did meet the requirements of the developmental ordinance.

Traffic – Right Turn Lane: Route 4 to Bow Lake Road; Chair Strobel stated that they have a finding of fact in the public record from DOT that current traffic levels do not require a right turn lane, but the applicant has proposed one anyway to mitigate that. Mr. Jandebaur stated that he doesn't feel that this will make a difference in traffic. He stated that he sat out there for a half an hour on Monday, every single person that turned right used the breakdown lane as a turning lane. It's not a great consideration in the change of the traffic of that intersection because as we speak everyone is using it as a turning lane. Mr. McCaffrey stated that the applicant was willing to do this, he likes the change in terms of making it an accessible turn. The other observation he would make is that when you get any kind of congestion, a real turn lane there does make it more accessible going through. Mr. Kreider stated that his concern with this turn is the conflict with pedestrians.

Traffic – Left Turn from Bow Lake Road to Route 4: Chair Strobel stated that they have had a lot of discussion about this, and it's a big concern for him. The applicant has increased the turn lanes and the width of the turn lanes to accommodate as the designed que traffic, which is 9 vehicles, according to the 2030 build stage. The problem as he sees it, is that by multiple models, both the original traffic design and the rebuttal by Mr. Pernaw is that they are still looking at delays of on average of 46 seconds on existing prebuild over the morning peak hour. They are also looking at as Mr. Pernaw talked about, the difference between the build and no build. The delay for a one stage turn for 2020 between no build and build is almost 90 seconds. Mr. Kreider stated that from the public testimony, most people say that it's a terrible intersection and the wait times are horrendous. Mr. Pernaw's first model said that it would be three times worse. His revised model said it will get two times worse. Mr. McCaffrey stated that Mr. Pernaw did an actual count study over three days. Mr. Kreider stated that Mr. Pernaw said that none of the improvements changed the traffic study results. The last traffic study includes all the changes, and he had encouraged the board to go by the average. Chair Strobel stated that in the January memo, the design standards for Bow Lake Road left turn departures. The average delay for 7AM to 8AM is 46 seconds. For the 2020 no build, the delay is 57.6 second, and for the 2020 build there is a delay of 104.4 seconds. For the 2030 no build, its 37.5 seconds. So, it's moving from an existing delay of 46 seconds to an additional design of potentially 47 seconds. Mr. Kreider stated that after hearing Mr. Pernaw at the last

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meeting, he got an appreciation for an idea that the ratings are not based on grades you get in school, rather they are more like hurricanes, 1,2,3,4,5. His position is if you're already in a category 5 hurricane, would you want to tell the weather to add some more wind? He personally wouldn't. The other thing Mr. Pernaw said was that the ratings and their acceptability is based on the local, specifically said 50 seconds to a New York cab driver was acceptable, when they have heard testimony after testimony where people have said they are already at their limit with the wait times. To add to that based on the local criteria that says it's already bad, he does not want to double it. Ms. B. Smith asked if any of the information is actually valid? Because there was one instance where Mr. Pernaw seemed to think that what it was showing was too long a wait. Mr. Pernaw said he went there one day and personally counted the cars, and managed to come up with a number that was much smaller. Mr. Jandebaur stated that he's read all of the information and there might be a little concern here and there, but the traffic that is currently in this intersection, and then increasing that traffic is his concern. Northwood has the second busiest east/west highway going through the town whether they like it or not. Northwood also has the high school on Route 4. They also have Strafford students coming in from Bow Lake Road. The amount of traffic is incredible, and the speed is even worse. All of these things add up to be an already nightmare for some people. The public testimony tells a story that is quite familiar to him, and that is that that can be a dangerous intersection to go through. He absolutely thinks that this proposed business will add to the traffic nightmare. Including the fact that, when you have to wait some of those minutes, you start taking chances. Many of us do, but especially high school students. Just the fact that there are an inordinate amount of high school students traversing through that interchange is very important to him. Ms. B Smith stated that there is already all of this traffic, and all of this speed. Why add to it exponentially. No matter what the traffic study shows, it's going to do that. Chair Strobel stated that as Mr. Pernaw has documented in his existing traffic report, Bow Lake Road and Route 4 is already at level of service F. The applicant is required to mitigate safety, and he thinks they have done all that they can and that the intersection will allow, as well as explored every possibility. It still is not mitigated, because its already a bad situation.

General Traffic – change in the character of the neighborhood: Chair Strobel stated that they have a traffic report where they are adding 41 to 45 vehicles pulling into the shop, 90 to 93 trips as predicted for a restaurant use versus one on Bow Lake Road for any other use of that same lot for general or residential. How is that not a change in the neighborhood? The traffic design for this use of a restaurant was 90-93 trips per day additional. The important fact for him is that traffic from Bow Lake Road moves from 241 to 320 vehicles per day in a 2020 no build-to-build design, so they are looking at an increase of 33% in traffic on Bow Lake Road. To him, that is a significant change in the neighborhood. In addition, the applicant has stated and he can't disagree that there is a good bit of commercial property in this area, what constitutes

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the neighborhood. There is arguably Coe Brown, a Catholic Church, the green house, the telephone exchange building and that is all in the public record. The difference between those commercial properties and this commercial property is that the dwell time on traffic is significantly lower. If he goes to the remodel shop across the street, or town hall, or the car repair shop, he's typically there for 15 minutes or more. In this case, the business model is built on turnover. They are looking at a 33% increase in traffic on Bow Lake Road alone, and that is a significant difference between what exists now and what the design is predicting. That then goes into Zoning V.B. (1) (a) By its nature or design, or through the use of vegetative or topographical buffers, the use will not substantially alter the character of the area in which it is proposed to be sited. Just by bringing that much traffic, that is changing the neighborhood. Mr. Kreider stated that what Chair Strobel just said is affected by what you define the neighborhood as. They have heard alternating opinions as to what the neighborhood should be. Personally, based on experience going to Nashua NH, where you drive down Main Street, it's commercial then you turn off onto Pearl Street, while there are still some businesses, there is an entirely different feel and it is considered a different neighborhood. From his perspective, with the main entrance and exit of the business being on Bow Lake Road, that definition makes Bow Lake Road the neighborhood, not Route 4. There is frontage on Route 4, but in his opinion, the neighborhood goes from the entrance of Bow Lake Road and that's a residential neighborhood. In addition, the assessor for the applicant said that as a result of this business coming in, the best and highest use of the Severance's property will be a business use. It's currently a residence, so as a result of this, the new best and highest use is a business. Residence to business is a change in neighborhood also. For both of those reasons, he feels that they would be changing the neighborhood if they approve this. Mr. McCaffrey stated that in part he agrees, there is a change in the neighborhood, in a manner of speaking. This is a property that sits on the corner of a very busy street. Route 4 has been one of the busiest roads coming out of Concord going to the Seacoast. There is a lot of commercial businesses going along it. There are huge trucks going up and down Route 4 which makes anyone who lives on or near it very aware of the commercial nature of Route 4. He doesn't see where it can be considered a residential neighborhood because you've moved off 100 feet from Route 4. Ms. B. Smith stated that if they want to call this a commercial area, two churches, a town hall, a school, and one commercial building that we never see cars at, the phone building. Her point is that this is not a commercial area, in the nature of credit union, a grocery store, two gas stations and various other things. This is a quieter area; it is not a commercial area. Which means that it would very much change the neighborhood.

Pedestrians: Mr. Kreider stated that, based on his experience at Dunkin Donuts, his guess is that there will be a lot of pedestrians coming over. He stated that he didn't see anything to mitigate multiple groups of people going to a walk-up coffee service. Chair Strobel stated that is mentioned in the original traffic study that pedestrian traffic was

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minimal. Mr. Kreider stated that they weren't presented with any data that said what the expectation would be once there was a coffee shop there. This concern just adds to the safety issue.

Chair Pro Temp Strobel states he is getting a sense of the board that there are aspects of the regulations that are not met – specifically traffic – and suggests that the board should start discussion on the specifics, and itemizing what is deficient

IX.C.(1) Streets and Access General Requirements

Mr. Kreider thinks the conditions are unsafe

Mr. McCaffrey doesn't think the studies reflect unsafe conditions

Mr. Kreider states that this application does not completely mitigate the safety issues that it worsens

Mr. McCaffrey states he would prefer to focus on the undeniable fact that volumes will increase to determine whether or not this crosses the threshold of unacceptable

IX.C.(2)(b) says the board may require improvements to such streets or intersections to mitigate impacts to the safe and suitable access

Mr. Strobel feels it doesn't meet on the grounds that it fails to adequately mitigate impacts to the traffic safety and suitability

Zoning V.B.1.a.1 Character of the area

Mr. Jandebaur makes a motion to deny the application for failure to comply with the following requirements. Second by Mr. Kreider.

- IX.C.(1) – the applicant fails to satisfy the last sentence regarding mitigating the impacts
- IX.C.(2)(b) – again, the applicant fails to effectively mitigate the negative impacts

Mr. Kreider moves to amend the motion to add the following criterion. Second by Ms. B. Smith.

- Zoning V.B.1.a.1 - fails to comply on the grounds that it alters the character of the area

Motion to amend passes 4-1 (Mr. McCaffrey votes no)

Vote on the motion to deny the application, as amended: 4-1 passes. (Mr. McCaffrey votes no)

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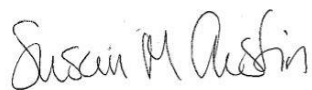
Mr. Strobel reiterated the decision for the record – the applicant has been denied by a 4-1 vote

Mr. McCaffrey stated that as everyone knows, the Planning Board's long-standing Chair, Bob Strobel, is stepping down to an alternate position. He stated that he wanted to thank him for his service. As various members of committees and boards, we all provide some participation in the effort to honor the intention of a democratic local community trying to do it's best. That requires participation. This is one of the boards where people volunteer their time. It's an admirable enterprise and it has a lot to do with making a democracy work. Bob has been someone who has certainly put in his time and he's done it above average. He stated that he wants to commend Bob for that, and he appreciates it. While they have had differences on issues, he's never faulted Bob for not doing an above average effort. What he appreciates, maybe more than anything, is that Bob is always conducting himself as a gentleman, and that is extremely valuable in any one of the boards or committees. He has always treated the people that came before him in a respectful manner, and dealt with them in a way that gave them a full and best opportunity to say whatever they had to say, and that is an above average hallmark, and he'd just like to thank him.

Adjournment

Motion to adjourn by Mr. Jandebaur at 9:50. Second by Ms. B. Smith. Motion passes.

Respectfully Submitted,



Susan Austin, Land Use Assistant.