

**PLANNING BOARD MEETING
TOWN OF CUMBERLAND
Cumberland Town Hall
290 Tuttle Road, Cumberland, Maine 04021
Tuesday, July 15, 2014
7:00 p.m.**

- A. **Call to Order:** The meeting was called to order at 7:00 p.m.
- B. **Roll Call:**
Present: Chris Neagle, Chair, John Ferland, Vice-Chair, Jeff Davis, Josh Saunders, Peter Sherr, Teri Maloney-Kelly
Absent: Gerry Boivin
Staff: Carla Nixon, Town Planner, Pam Bosarge, Administrative Assistant
- C. **Approval of Minutes of the June 17, 2014 meeting.**

Mr. Sherr moved to approve as amended.

Mr. Davis seconded.

VOTE: 4- in favor
2 abstain (Neagle, Saunders)

- D. **Staff Site Plan Approvals:**
1. **Twin Brook Storage Building: a single story, 1,280 sq. ft. metal equipment storage building behind an existing maintenance building.**

Ms. Nixon stated this was a Major Staff Site Plan Review which required input from the Major Staff Review Committee. The proposal will build a storage building at Twin Brook behind the existing building; more storage space was required due to the demolition of the red shed building at the old Drowne Road School, (now Village Green Apartments).

2. **Accessory Dwelling Unit (ADU) – Manning Morrill 101 Middle Road, Tax Assessor Map R01, Lot 36A in the Rural Residential 2 (RR2) district.**

Ms. Nixon stated this review was for Manning Morrill to construct a 968 sq. ft. accessory dwelling unit at 101 Middle Road.

Mr. Neagle asked that town staff attach the Site Plans to the review notices for the Board's review.

- E. **Hearings and Presentations:**

- 1. **Tabled by Applicant - Public Hearing: Major Site Plan for a 10,000 sq. ft. commercial building at U S Route One, Lot #6 of Cumberland Foreside Village, Tax Assessor Map R01, Lot 11B in the Office Commercial South (OCS) district; Applicant, Pack Edge Inc., Company; Representative, Tom Greer, P.E., Pinkham & Greer Civil Engineers; Owner, Cumberland Foreside Village LLC.**
2. **Public Hearing: Major Site Plan Amendment to modify the landscape plan for 319 Main Street, Louie's Grille; Tax Assessor Map U13, Lot 110 in the Town Center District (TCD) Owner, Applicant Jim Guidi.**

Ms. Nixon presented background information as follows: The Planning Board approved the project at 319 Main Street *Louie's Grille* with conditions. The applicant is asking the Board to reconsider the

location of the dumpster from the back of the kitchen to the area at the end of the parking area because of odor. This location is closer to the condos. Mr. Guidi is also asking that he not be required to plant the remaining shrubs in the landscaping plan next the fence and to add picnic tables. Picnic tables were not part of the approved plan.

Mr. Guidi stated a few weeks ago Bill Longley (Code Officer) and Carla Nixon (Planner) did a site walk at the restaurant. They noted the changes and uncompleted items in the Site Plan Approval.

Mr. Guidi reviewed his proposed changes to the site plan as follows.

1. To not plant the buffering along the solid cedar fence as shown on the original site plan.
 - The fence is a solid six foot high cedar fence. The arborvitaes would hold moisture and void the warranty of the fence.
 - Plowing snow up against the fence would damage the arborvitaes.
 - A sound barrier is created by a solid structure not plants. The fence is a solid six feet high cedar fence.
 - The six to eight foot grassy strip is easier to maintain.

Mr. Guidi stated he surveyed the trees on the other side of the fence; there are twelve maples and six spruce trees which create the existing buffer. The condominiums are not visible from his property.

2. Location of Dumpster:
 - The dumpster location on the site plan is fine during the winter months; but in May it creates a health problem due to flies. He would like to have the flexibility to move it to the back of the property during certain months and to move it closer to the building in the winter months. He cannot leave the dumpster in its current relocated location in the winter due to the need for snow storage.
3. Dumpster screened:
 - Mr. Guidi requested a waiver from the dumpster screening; referencing the two dumpsters in the school parking lot behind his that are not screened.
4. Picnic Tables:
 - Mr. Guidi stated we would like to have four picnic tables outside for waiting customers; in the location next to the fence, which is a shady area.
5. Hours of operation:
 - Mr. Guidi addressed Mr. Heiselberg's concern regarding lights not being turned off one hour after closing. Mr. Guidi asked for some flexibility; the approved hours were from 6:00 a.m. to 9:00 p.m. with all operational interior and exterior lighting to be shut off between one hour after closing and one hour before opening. They are locking the doors at 9:00 p.m. and the last customers are gone by 10:00 p.m. Sometimes staff needs to stay longer to finish the work. There have been times when the staff has talked in the parking lot. Mr. Guidi stated his two closest neighbors have been very supportive.

Mr. Ferland asked for some clarification on the trees in the photo presented to the Board.

Mr. Guidi stated he planted the one next to the picnic table and there is an existing six inch maple.

Mr. Neagle stated the dumpster is required to be screened by Ordinance. He would not be in favor of the dumpster not being screened. He understands the dumpster has already been moved to a location where the second building may or may not be built. Mr. Neagle continued stating picnic tables located next to the fence is not a good idea due to traffic, there is a larger green area on the site.

Mr. Guidi stated it is a shaded area of the lot.

Mr. Sherr stated picnic tables with umbrellas could be used to provide shade if the tables are located in another area.

Mr. Davis asked about the two gardens on the plan.

Mr. Guidi stated those were not planted, the propane tank is in that spot, he will be changing to natural gas and the propane tank will be removed.

Mr. Davis stated on the plans the future structure is shown in two different locations.

Mr. Guidi stated he copied the incorrect plan, the future structure is shown correctly on the landscape plan closest to the school.

Mr. Neagle opened the public portion of the meeting.

Mr. Neagle read into the record letters received from the following abutters:

Gary Heiselberg President of the Osgood Village Condominium Association, letter of July 7, 2014: stated the landscaping plan, in addition to enhancing the appearance of his facility, is a primary element of the sight and sound buffer between his operation and our neighborhood. We request, in the strongest possible terms, that the Planning Board not permit the modification Mr. Guidi requests and require the landscaping previously approved.

Patricia Heiselberg of 8 Village Way: letters of July 8, and July 10, 2014. Ms. Heiselberg stated noise and sight issues have already been noted and reported. Mr. Guidi's proposal will provide no sight or sound buffer for the adjacent properties. As I explained in my letter dated July 8, the landscaping sight and sound buffer is desperately needed. Mr. Guidi applied and was granted permission for a restaurant at 319 Main Street with a certain number of indoor seating spaces. The one picnic table is already creating an issue with unacceptable noise impacting neighbors. Picnic tables will provide outdoor seating which should not be allowed on this site. I strongly oppose any outdoor seating; and request that Mr. Guidi be held to his original approved plan and denied any changes.

Mr. Tom Arnoldo owner of 4 Village Way wrote in his letter dated July 15th the following: His wife's mother Fran Dillon lives in the condo and when asked about Louie's Grille this was her response. She has no concerns:

- The noise is no different than she would expect with a neighbor coming and going from their home.
- She didn't notice the picnic table until she drove by the parking lot.
- The lighting is fine, and comforting for security purposes. The residents at Village Way leave their lampposts on all night for safety reasons.
- Mr. Guidi has been a good neighbor to her and offered assistance on at least two occasions.
- In summary she has no concerns with sound or lighting from Louie's Grille.

Ms. Carolyn Currie of 321 Main Street wrote in her letter dated July 14th: It is beneficial for them to have the dumpster relocated. The smell of garbage and spoiled food could be smelled next to their pool (which is their outdoor living area in the summer).

Ms. Sharon Zandan of 5 Village Way thanked Mr. Neagle for reading her letter. She stated she has no problem with the location of the dumpster. It is the noise; the restaurant opened in December and the plantings were not installed; now it is July and there are still no plantings. She is hoping the Town will require Mr. Guidi to be respectful of his approval. When she and Mary Ellen came in and talked with Ms.

Nixon and Mr. Longley she found it wasn't a few plants but thirty to forty arborvitaes. Without noise barriers it is very loud. She also is opposed to the picnic tables which will increase the noise. I wish you the best in your business but please keep the noise inside the restaurant. In regards to hours the approval required that the light be off and leave within an hour after closing, to which we have been flexible. We are asking that the Town give us the approved plantings and not allow picnic tables.

Ms. Mary Ellen Joyce of 10 Village Way stated she too wishes Jim well, it is a great business. Noise is the problem her unit is at the back of the property and she has no issues with the dumpster location, but would like to have it screened. Her back window is approximately fifteen feet from the fence and 6' from the parking lot. She has heard employee's conversations in the parking lot at 11:00 p.m. She is asking that the Planning Board require Mr. Guidi to complete the plantings. She researched on the internet and found that plantings are indeed a good sound buffer. She doesn't like the fact that Mr. Guidi did not meet the conditions of his approval; until it was brought to the Town's attention. Again, she would like the town to hold Mr. Guidi to his conditions of approval and plant the buffer and not to allow picnic tables on the other side of the fence.

Mr. Doug Curie of 321 Main Street thanked the residents of Osgood Village Condos for the concession on the dumpster; smell has a big impact to quality of life.

Mr. Neagle closed the public portion of the meeting.

Mr. Neagle stated he does not support an unscreened dumpster; he would recommend tabling the dumpster relocation and Mr. Guidi proposing a permanent location in which the dumpster can be screened.

Mr. Guidi stated finding a permanent location for the dumpster makes sense, could he work with Carla on the location and not come back to the Board.

Mr. Neagle stated he would be hesitant to pass on duties of this Board to the Town Planner, he wouldn't support that request.

Mr. Sherr encouraged Mr. Guidi to come back to the board with a plan for the location of the dumpster.

Mr. Neagle stated the landscaping; buffering and picnic tables seem related and asked the Board for comments.

Mr. Sherr stated he was on the Board for the original review and a lot of time was spent discussing the landscaping. It may be possible to re-locate the picnic tables away from the fence. He would support buffering of the dumpster as originally approved.

Mr. Sherr stated there was a lot of effort and discussion on the fence and buffering of the property; Mr. Guidi proposed the plan to the Board.

Mr. Ferland stated he was not present at the approval, but remembers the issue of businesses on Main Street as contentious and controversial. He supported businesses on Main Street giving neighbors comfort that business will fit in. Louie's is a really nice place, how do we assure continued success and give assurances to future businesses that residences and businesses can be good neighbors. He would prefer to discuss the picnic table first.

Mr. Sherr stated he is not opposed to re-locating the picnic tables; placing them along the fence and property line could add to the noise, could they be located in the back near the school or garden area.

Mr. Davis stated there are benches near the gardens as part of the original approval for sitting areas, can the picnic tables be located in that area so as to not disruptive to the neighbors.

Mr. Neagle agreed they could be located in a better location and he was not in favor of not requiring the landscaping that was proposed, the landscaping will have a positive impact on the noise.

Mr. Saunders stated if the arborvitaes degrade fence is there an alternative planting, he is not in favor of eliminating the buffering. Mr. Saunders asked if the intent was to serve food at the picnic tables.

Mr. Guidi stated no.

Mr. Davis asked if he anticipated take out.

Ms. Teri Maloney-Kelly stated she doesn't support the tables; they are an attractive nuisance.

Mr. Neagle voiced concern regarding the increase number of seating at the picnic tables, current restaurant and future structure. He would want to review parking requirements.

Mr. Guidi stated he is required to have sixteen spaces and has thirty-two.

Mr. Neagle asked the Board if any would support the picnic tables along the fence. There was no support.

Mr. Neagle asked the Board if they were in favor of eliminating all the plantings. There was no support.

Mr. Sherr moved to deny the request to eliminate the buffering as approved on the Landscaping Plan.

Mr. Davis seconded.

VOTE: Unanimous

Mr. Neagle encouraged Mr. Guidi to come back to the Board with a new location for the dumpster and picnic tables. These requests were tabled.

Mr. Neagle stated in reference to the hours of operation he was hesitant to address the issue. His understanding is the doors are closed at 9:00 p.m. and the building is empty by 10:00 p.m. Mr. Neagle stated this is a great business; he too has been there a few times. He would like to see the original approval conditions.

Ms. Nixon stated the doors are to be locked at 9:00 p.m. and people are allowed to order and finish their meal.

Mr. Guidi stated on most nights lights out at 10:00 p.m. work fine, sometimes on weekends it is impossible to be finished.

Mr. Neagle thought the noise issue might be addressed by restaurant employee education.

Mr. Sherr stated the Board should have what was approved and Mr. Guidi can come back if he wants with proposed changes or mitigation to the plans. The hours of operation were part of the application. He would support a revised permanent location for a screened dumpster. He is not sure on the picnic tables, but would be willing to consider an alternate landscape plan.

Mr. Neagle thanked the public for their input.

G. Administrative Matters: None

H. Adjournment:

Mr. Neagle adjourned the meeting at 8:10 p.m.

A TRUE COPY ATTEST:

Christopher S. Neagle, Board Chair

Pam Bosarge, Administrative Assistant