



TOWN OF DURHAM
8 NEWMARKET RD
DURHAM, NH 03824-2898
603/868-8064
www.ci.durham.nh.us

Town Planner's Project Review
Wednesday, July 26, 2017

IX. **Tavern Way Barn – Change of Use.** Conceptual site plan application to change the use of the existing barn structure at 9 Tavern Way (formerly 50 Newmarket Road) to accommodate business offices, two one-bedroom apartments, and other possible uses including a community center, performing arts facility, workshop and gallery, and training facility. The property is the former Mill Pond Center. Applicant - Thomas and Nicole Toye. Property owner - Thomas Toye IV Revocable Trust, c/o Thomas Toye, trustee. Map 6, Lot 9-8. Residence B District.

➤ Discuss project, schedule a site walk, and continue the review to August 9.

Please note the following:

Background Information

See the tax map and aerial photo at the end.

- 1) **Site.** There is a large single family house and a large former barn on the property which contains 14+ acres. This parcel is the former Mill Pond Center that many residents are familiar with. The Mill Pond Center closed down a number of years ago. The property was subsequently purchased by the Seacoast Repertory Theater (SRT). SRT was not successful in operating a theater on the site and sold the property. Much of the property is in a conservation easement with the Southeast Land Trust of New Hampshire (SELT).
- 2) **Variance.** The ZBA granted a variance to Mr. Toye “*to change the use of an existing barn to house a community center, performing arts, training & skill development, workshop & gallery, artisan space, business office and two 1-bedroom apartments as a mixed use building.*” (The Residence B district does not otherwise allow these uses.) The application is to provide for these uses.
- 3) **Activities on site.** I have asked the applicant to give some more thought to the activities that might occur in the barn. The second floor will be used for two apartments and there are no plans for the third floor now so this would involve only the first floor. What kinds of activities are envisioned? How many people might there be? How often would events be held? What hours are proposed? Hours of operation is only a potential issue if there could be noise that could disturb neighbors.
- 4) **Future activity on site.** It is understood that the amount and types of activity that could occur on site may well change over time, within the parameters approved by the ZBA. We will need to carefully craft any approval that would cover potential future changes.

Should additional reviews for particular special events be conducted by the Planning Board or Minor Site Committee? For certain elements of the plan, the board could specify future improvements that would be required if certain thresholds of activity are met. Specifying improvements at a future date is tricky but it can be accomplished by possibly holding a surety and having an applicant sign an agreement with an understanding that future use could be restricted if designated improvements are not completed.

- 5) 2-lot subdivision. In order to recoup some of its investment into the property SRT succeeded in subdividing 1 lot at the front of the property several years ago. This new lot, Lot 9-8-1, fronting on Newmarket Road is undeveloped. Tom and Nicole Toye own both lots. Mr. Toye says he has no plans for the front lot at this time. Both lots take access from Tavern Way, a private driveway that crosses both lots. Easements and maintenance provisions were created as part of the subdivision.

Process

- 6) Conceptual review. Note that the applicant submitted this application for a regular site plan review. There are a number of questions that remain to be answered – and thus it makes sense to hold off on acceptance – so I recommend this application be treated as a conceptual application. The applicant said he was fine with this approach. A conceptual application is a preliminary application like a design review, the difference being that the latter involves notices and a public hearing. I recommend the review be continued to August 9. Assuming the applicant can provide much of the additional information in the next few weeks then the application should be ready for acceptance on August 9 and then treated as a formal application. Treating this application as a conceptual rather than a formal application that is not yet accepted should have no impact on the timeframe.
- 7) Technical Review Group. The application was reviewed by the TRG on July 18. I will email minutes of the meeting shortly.
- 8) Engineer. I have suggested that the applicant hire an engineer to address a few issues on the plan, including providing details of proposed improvements to the driveway, the parking area (at least for an accessible parking area), and the ramp into the barn.
- 9) Site walk. I recommend that the board schedule a site walk. Even though the application is conceptual at this point, it would be beneficial to conduct the site walk now.

Barn

- 10) Improvements to the barn. The applicant proposes rehabilitating the exterior and relocating the main entrance to the rear. We will need more details about these changes.
- 11) Architectural design. The Planning Board does not have design purview over proposed architectural changes but can make suggestions once we have more information. I

believe the applicant's intent is to preserve the exterior and make only minimal necessary changes.

- 12) Barn. The former barn is a beautiful structure. According to the tax card it was built in 1917 and contains 3,640 square feet on the first floor and upper story.
- 13) Floor plans. It would be helpful if the applicant can provide floor plans of the interior. The board does not have purview over the interior design of buildings but this information would be helpful to better understand how the apartments work and how the space on the first floor might be used (most readily for a school, performances, gatherings, etc.).
- 14) Apartments. We will need to determine whether the current 600 square foot standard applies or whether the apartments are grandfathered under the old 300 square foot standard. The applicant believes the units are about 750 square feet. We should get a figure for the square footage at any rate. When were the apartments created? Were they approved at the time?
- 15) Building entrance. The applicant said he will likely relocate the main entrance, including the ramp, to the rear of the barn. We will need details for this.
- 16) Fire Issues. I understand that the barn is sprinkled now. The Fire Department visited the property recently. The department will clarify any issues related to sprinkling, an alarm, provision of water, and access to the site.
- 17) Building Code. The applicant will work with Audrey Cline to determine which improvements might be needed to the building. These requirements are separate from site plan review (except for any exterior changes) but it is useful for all to at least have a general expectation ahead of time.
- 18) Energy checklist. I will arrange a meeting with the applicant, Audrey Cline, building official, and a representative of the Energy Committee to discuss the energy checklist.

Access and Parking

- 19) Driveway. The driveway that serves the site crosses the new lot (There is an access easement in place). It is paved to a width 11-12 feet. It branches off to serve the house on the right and continues to the left to the large parking area. The top of the driveway is in good condition. The driveway becomes more challenging as one continues: it gets steeper and somewhat windier, and the pavement condition is deteriorated. The applicant plans to make some improvements to the driveway – regrading and repaving the lower section. We will need specific plans of what is intended. A key part of the site plan review will be determining which improvements are appropriate for the proposed new uses – most likely at the lower end. It may be desirable to provide for one or more turnouts to allow for vehicles to pass one another. As part of the 2-lot subdivision approval, the driveway portion leading to the access into the front lot must be improved with 4 foot wide gravel shoulders on both sides (not required until the

front lot is developed). This same standard might be applied for the entire driveway. The Planning Board has considerable discretion in this review per the Site Plan Regulations – Article XVI Traffic and Access Management. Whatever improvements might be specified could be implemented in the future depending on the extent of actual use of the barn. The subdivision plan shows clear sight distance of 400 feet in either direction at Newmarket Road which exceeds the site plan requirements.

- 20) NHDOT approval. DOT will need to approve/okay the expanded use at the site. This location is beyond the urban compact (the Town-maintained portion of Route 108).
- 21) Parking. The parking area is gravel. The applicant would like to keep the parking area gravel. I think this is reasonable provided there is not substantial new activity generated on site such that the gravel surface becomes problematic. The Site Plan regulations state: *10.6.1 All parking areas and travel ways shall be surfaced with a hard, finished surface - asphalt, concrete, porous asphalt or concrete, interlocking pavers, paving stones, or comparable material - that will provide good protection against potholes, erosion, and dust, and will not be subject to damage from snow plowing. However, developments that generate little parking and traffic, developments in rural or outlying areas, and low usage overflow parking areas may be finished with gravel, crushed stone and comparable materials. This exception does not apply to nonresidential uses which will generate significant traffic, multi-unit dwellings, fraternities, sororities, and rooming and boarding houses, for which a hard, finished surface shall be used.* The regulations also state: *1.1.4 Legally established nonconforming site conditions are considered “grandfathered” until such time as site plan review is required due to proposed changes to a property. The Planning Board shall use the nonconforming provisions in the Town of Durham Zoning Ordinance as a guide in reviewing such situations, to the extent appropriate.*
As part of any site plan review, the Planning Board may require that:
(a) nonconforming site conditions be brought into compliance; or
(b) the extent of nonconforming site conditions be reduced; or
(c) nonconforming site conditions be mitigated, giving due consideration both to the extent of the nonconformities and their adverse impacts and to the costs for addressing the nonconformities relative to the costs for the overall project.
- 22) Number of parking spaces. The applicant will provide his estimate of how many cars can be accommodated in the lot.
- 23) Accessible space. One van-accessible parking space will need to be designated including an accessible path to the barn.

Site Issues

- 24) Solid waste. The applicant plans to add a dumpster. He will need to coordinate with Mike Lynch and/or the Integrated Waste Management Advisory Committee on a recycling plan.
- 25) Well. The site is served by a private well. The applicant will need to submit more information about location and capacity.

- 26) Septic. The site is served by a private septic system. The applicant will need to submit more information about location, capacity, and condition.
- 27) Lighting. Will any new lighting be installed?
- 28) Signage. If any signage is installed in the future, the applicant could bring the proposed design to the Planning Board for comments.
- 29) Deliveries. How will deliveries be handled?
- 30) Bike rack. A bike facility should be included. This can be added as a precedent condition unless the applicant has a specific proposal now.

Other Issues

- 31) Buffer to neighbors. The property is densely wooded toward the south and west where adjacent houses are closest. The house to the south, on Lot 9-10, owned by Hiller, is 290 feet from the parking lot and 510 feet from the barn. The house to the west, on Lot 9-11, owned by Ware and Ramey is 230 feet from the parking lot and 400 feet to barn. It is unlikely that the neighbors would be aware of events on site except for in the case of loud evening events.
- 32) Historic District. The subject lot is beyond the Durham Historic District. The HDC approved the proposed improvements to the upper driveway, which is within the district. If further changes were required for the upper driveway the plans would need to go to the HDC for review.
- 33) WCOD. The wetland conservation overlay district extends 75 feet from the wetland shown on the plans. If there is any new construction or expansion of any pavement or driveways within 75 feet of the wetland a conditional use would be needed. We will know more once the applicant provides more information.
- 34) Shoreland District. The parking area and barn are not located in the Shoreland Protection Overlay District. The property fronts the Oyster River but it is quite a distance away.
- 35) Contractor. Does the applicant have an architect and/or contractor for the work to be performed?

(over)

Lot 9-8

