

EXETER PLANNING BOARD

MINUTES

JANUARY 28, 2010

Chairman Lang Plumer called the meeting to order at 7:00 PM in the Nowak Room on the above date.

PRESENT: Chairman Lang Plumer, Vice Chairwoman Kathy Corson, Clerk Ken Knowles, Selectmen's Representative Bill Campbell, Members: Amy Bailey, and Katherine Woolhouse, Alternate Members: Gwen English, Town Planner Sylvia von Aulock and Deputy Code Enforcement Officer Barbara McEvoy.

It was noted that all board members in attendance would be voting.

NEW BUSINESS: PUBLIC HEARINGS

WINDEMERE DEVELOPMENT, LLC – PB CASE #9917

A request by Daniel W. Jones, Esquire (on behalf of Richard and Renee Carman) for a Motion to Reopen Planning Board Case #9917 for the limited purpose of reviewing and approving the placement of a swimming pool within a voluntary buffer zone on Lot #17 and shown on the "Subdivision Plan of Windemere at Exeter, as recorded at the Rockingham County Registry of Deeds, Plan #D-28006, and approved by the Exeter Planning Board on April 21, 2000. The subject property is located at 8 Dearborn Brook Circle, in the R-2, Single Family Residential zoning district. Tax Map Parcel #70-61-17.

Mr. Campbell moved to reopen the case, as requested; second by Mr. Knowles. VOTE: Unanimous. PB Case #9917 reopened for the purpose of discussion relative to encroachment of voluntary buffer zone.

Attorney Dan Jones addressed the Board and acknowledged that Mr. and Mrs. Carman were also present with him. He referenced his request for "Motion to Reopen" and noted that the subject property was located in the Windemere subdivision developed back in 2000. He explained that during the review of the project, the Board and several abutting property owners had raised considerable concern regarding the protection of wetlands within the proposed subdivision given its proximity to the reservoir. He indicated that the developer, Mr. Eric Katz, had agreed to a voluntary twenty-foot (20') building setback from the wetlands to provide a protective buffer; the subdivision plan was approved and recorded. He indicated that subsequently, the Town amended the subdivision regulations to include wetland setbacks.

Attorney Jones stated that the Carmans purchased their property in October 2002, and applied for a building permit for the installation of a pool in July 2004. Plans were submitted to the town for review, they were approved, and the building permit was issued. He noted that Ms. Carman had a great deal of experience in landscape design and tried to find the best design and the least intrusive location for it. He provided photographs of the pool for the Board to review noting that there was no apron or deck surrounding the pool and that it was tastefully landscaped. He indicated that the discrepancy had been disclosed during the recent sale of the home. He noted that there were letters from the abutting property owners as well as the current owner of the property stating there was no objection to the pool as located. With respect to any concern of the reservoir being in close proximity to the development, he indicated that it was a "salt-generated" pool which did not use chlorine.

Mr. Knowles commented that his only objection to Attorney Jones' request was the last statement in his written documentation requesting that the Board make a decision that "the pool as installed does not violate the spirit and intent of the Planning Board's agreement with the developer with respect to the 20' building setback". He indicated that he was not in opposition to this request given the owners had come to the town and obtained the proper permits, and understanding that this possibly slipped through the cracks at the town level. He indicated that he did not want it misconstrued that the Planning Board thought a pool was acceptable in the buffer and wetlands areas in this subdivision or others in town.

Attorney Jones responded that as a result of this discussion, this "buffer" requirement has been widely recognized by the homeowners in the development and will hopefully be better adhered to. He indicated that the situation was truly the nature of an equitable waiver, although the requirement from which relief was being sought was not addressed in the zoning ordinance. He indicated that he understood the

Board's concerns and that his client did not wish to set any precedent, but was advised that this was the only course of action for such relief. Ms. Corson concurred with Mr. Knowles. Ms. von Aulock stated that granting the waiver would be specific to this case and this case only. For the record, Mr. Knowles indicated that removing the pool would be more detrimental to the wetlands. Ms. Bailey also concurred, but reiterated her concern that people do understand that it is not acceptable violate regulations and seek approval to legalize it at a later date. She expressed that she did not want to see it become n "easier to beg for forgiveness, than ask for permission" situation.

There being no further Board discussion, Chairman Plumer opened the hearing for public comment; there was none. The public portion of the meeting was closed.

Mr. Knowles moved to grant a waiver specifically for Lot #70-61-17 (8 Dearborn Brook Circle) from the wetland buffer restriction, seeing that the property owners obtained the proper approvals for a building permit and that the Planning Board would not permit any further encroachments into the wetlands buffer. Mr. Campbell seconded the motion. VOTE: Unanimous. WAIVER GRANTED FROM VOLUNTARY WETLAND SETBACK.

OTHER BUSINESS

NH RIVERS MANAGEMENT AND PROTECTION PROGRAM PRESENTATION

Ms. Theresa Walker, from the Rockingham Planning Commission, addressed the Board and thanked them for allowing her some time to speak with them regarding the proposed nomination of the Squamscott River to the NH Rivers Management and Protection Program (RMPP). She indicated that the Exeter River was nominated and enrolled into this program in 1995, and subsequently the Exeter River Local Advisory Committee (ERLAC) was established in 1996. She stated that Exeter was very well represented on this committee, and acknowledged that two of its three members were also present in the audience – Chair Don Clement, and Conservation Commission Chair Pete Richardson; she added that Mr. John Henson was the other representative. She also acknowledged that Mr. Roger Wakeman from Phillips Exeter Academy (PEA) was also present and was an active participant in the program.

Ms. Walker explained the NH State statute had been amended to include "salt" waters, and accordingly ERLAC was promoting the nomination of the Squamscott River into the program. She noted that it would benefit riverfront owners, river users and most important, the river itself. She indicated that as part of the process a letter of support would be requested from the Board (most likely sometime in April).

APPROVAL OF MINUTES: None

TOWN PLANNER ITEMS

Ms. von Aulock informed the Board that the office was in the process of preparing a NH Coastal Program grant application for an updated Town-wide wetlands inventory (delineation) project. She noted that in anticipation of the recently proposed wetlands ordinance changes being adopted by the town voters, the updated inventory would provide more accurate data for the office to share with residents. She noted that it was a matching funds grant in the amount of \$3,000.

February 11th Meeting: Ms. von Aulock informed the Board that there was no business scheduled for the next meeting. She indicated that she had hoped to have the remaining Master Plan chapters ready for the Board to review at the March 11th meeting. ***Board consensus was to cancel the February 11th, 2010 meeting. Noting that the Board also does not meet the fourth week in February (due to school vacation), it was represented that next scheduled meeting of the Board would be March 11th, 2010.***

REPORTS ON "OTHER COMMITTEE" ACTIVITY - None

CHAIRMAN'S ITEMS - None

There being no further business before the Board, ***Mr. Campbell moved to adjourn; second by Mr. Knowles. VOTE: Unanimous. The meeting was adjourned at 7:40 P.M.***

Respectfully submitted,

Barbara S. McEvoy
Deputy Code Enforcement Officer
Planning & Building Department

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