

EXETER PLANNING BOARD

MINUTES

MARCH 11, 2010

Chairman Lang Plumer called the meeting to order at 7:05 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 Carol Sideris, Town Planner Sylvia von Aulock and Deputy Code Enforcement Officer Barbara McEvoy. Chairman Plumer indicated that all board members in attendance would be voting.

Chairman Plumer extended a "thanks" to residents who voted on Tuesday. He announced that all of the zoning articles passed.

### **OTHER BUSINESS**

#### **BOATOFGARTEN, LLC – PB CASE #2813**

The Board reviewed a request from Mr. Mike Leo of VHB, Inc., dated February 16, 2010, for a one-year extension of the conditional approval for the Boatofgarten Building Expansion at 32 Industrial Drive (Tax Map Parcel #47-11). The conditional approval for this project was granted by the Board on March 12<sup>th</sup>, 2009 meeting.

***Ms. Corson moved to grant the extension, as requested, noting the conditional approval would now expire on March 12<sup>th</sup>, 2011; second by Mr. Knowles. VOTE: Unanimous. ONE-YEAR EXTENSION OF CONDITIONAL APPROVAL GRANTED.***

### **NEW BUSINESS: PUBLIC HEARINGS**

#### **TUCK REALTY CORP. – PB CASE #2911**

**A request for modification of the conditional approval granted by the Planning Board for the "Town Lyne Square" subdivision which includes reconfiguration of the proposed access to lots and a request for relief from the requirement to post a performance guarantee. The subject property is located at 52 Hampton Road, in the R-2, Single Family Residential zoning district. Tax Map Parcel #89-4.**

Mr. John Krebs, of Tuck Realty Corp. was present to address the Board. He indicated that he was actually representing Chinburg Builders (the potential buyer of the subdivision) and noted that Mr. Eric Chinburg was out of the country and had asked that he presented the proposed changes to the Board on his behalf. Mr. Krebs proceeded to explain that the lot configuration was being modified to allow for access to four of the lots from a shared roadway (driveway) access from Hampton Road; he noted that the fifth lot (located furthest to the east) would have its own driveway. He indicated that the plan had been reviewed with the Fire Department and their only request that an additional "pull box" be located at the entrance of the proposed roadway serving the four (4) lots.

Mr. Krebs proceeded to address the request for relief from the performance guarantee requirement, noting that all the improvements were on private property with the exception of work required within the Hampton Road right-of-way (ROW). He noted that the ROW work would be bonded as part of the excavation permit. He requested that the Board allow him to tie the completion of final site improvements (i.e. asphalt, landscaping, etc.) to the issuance of the Certificate of Occupancy (C.O.).

Mr. Krebs also mentioned that the triangular piece of land to the east (and located in Hampton) had been transferred to the abutting property owner (N/F Lafreniere, 743 Exeter Road, Hampton Tax Map 6, Lot #16) and the lot line adjustment plan had been recorded.

Ms. Bailey inquired about the possibility of splitting Lots #4 and #5 in the opposite direction (common lot line to be parallel to Hampton Road) therefore allowing all five (5) lots to use the same access. Mr. Krebs responded that he believed three (3) of the lots were currently under contract subject to Planning Board approval.

Mr. Knowles commented that he was not in favor of waiving the requirement for a performance bond and allowing the Applicant to move forward without a performance bond and the Board signing off on the plan after completion of site improvements. He stated that there would be no protection for the potential buyers of the properties or for the Town should the developer be unsuccessful in completing the site improvements. Mr. Krebs responded that the requirement to post a bond adds additional cost to the development of the homes and should only apply if the roadway were to be a public (town) road.

Ms. Corson recalled the argument regarding width of the roadway in the Wright Lane subdivision (off Ashbrook Road). Ms. von Aulock indicated that the Applicant would be required to provide a deed reference indicating that the roadway serving Lots #1-4 shall remain private and this reference shall be included in each of the individual lot deeds.

There being no further discussion at this time, Chairman Plumer opened the hearing for public comment. There was no one present to comment, the public portion of the hearing was closed, and Board discussion resumed.

Ms. von Aulock indicated that she had spoken with Town Engineer Paul Vlasich earlier in the week (at the PB/DPW Site Inspectors' meeting) regarding the reconfiguration of the proposed subdivision. She recalled that the Applicant originally submitted plans showing a fourteen-foot (14') roadway, and the DPW and Fire Department had requested a sixteen-foot (16') road width for the shared access roadway serving three (3) lots at that time. She stated that after review of the proposed reconfiguration, an eighteen-foot (18') roadway with an extended apron at the entrance was now being requested by the Town Engineer. Ms. von Aulock made reference to other roadways recently reviewed by the Board and suggested that the town departments must be consistent with their decisions on this issue. She also noted that she had conversation with Mr. Vlasich relative to the request for relief from the performance guarantee. She indicated that Mr. Vlasich was not willing to send a site inspector out for inspections (i.e. utilities) without a bond and inspection fee deposit in place. She reiterated that it was necessary for the Applicant to provide a performance guarantee for the proposed site improvements.

Chairman Plumer asked if a Homeowner's Association was being proposed. Mr. Krebs responded that there would not be an association, although there would be a shared maintenance agreement (between the four property owners) for the private roadway access.

Mr. Campbell commented that he supported the idea of less pavement. Ms. von Aulock acknowledged the Board's concern relative to impervious surfaces, although she indicated that the Fire Department had also concurred with the request for eighteen feet (18') of road width. Mr. Campbell also mentioned that the driveway for Lot #5 needs to be kept out of the buffer.

Ms. Sideris commented that she agreed with the requirement for eighteen feet (18') of road width. Ms. von Aulock suggested that it may be an option for the roadway to be eighteen feet (18') in width at the entrance and beginning of the roadway where it would be most heavily travelled and then possibly taper to sixteen feet (16') to serve the two rear lots. Chairman Plumer expressed concern that parking along the roadway would restrict fire apparatus from entering.

There being no further discussion, Ms. von Aulock reviewed the conditions of approval previously granted by the Board and outlined in the letter dated November 23, 2009. She also summarized the recommended conditions relevant to the proposed modifications. Mr. Krebs contested having to comply with both the requirement to post a performance bond and Condition #6 of the previous approval requiring that "All on-site and off-site improvements shall be completed prior to any Certificates of Occupancy being issued."

***Mr. Campbell moved that the access roadway be a minimum of sixteen feet (16') in width and that the driveway for Lot #5 shall not be located within the 25' "No-Cut" buffer. (Motion failed for lack of second).***

***Ms. Sideris moved that the access roadway serving Lots #1-4 shall be a minimum of eighteen feet (18') in width with the option to be reduced to sixteen feet (16') in width to serve the two (2) rear lots and the design of said access onto Hampton Road, including the apron, shall be subject to***

***review and approval by the Department of Public Works; and that the driveway for Lot #5 shall not be located within the 25' "No-Cut" buffer. Motion was seconded by Mr. Campbell. VOTE: Unanimous.***

***Mr. Knowles moved to require the Applicant to submit a Storm Water Pollution Prevention Plan (SWPPP) prior to any site work commencing; second by Ms. Corson. VOTE: Unanimous.***

***Ms. Bailey moved to require the Applicant to provide a performance bond to cover the costs of the following: private roadway, utilities, landscaping, drainage, erosion and sedimentation control measures and any improvements within the shoulder of the right-of-way (Hampton Road); motion was seconded by Mr. Campbell. VOTE: Unanimous.***

Board consensus was that all other conditions as outlined in the November 23, 2009 conditional approval letter would remain valid, with the exception of modification of the dates in Condition #11.

There being no further discussion, ***Ms. Corson moved to approve the modifications to the conditional approval granted for Town Lyne Square subdivision on November 19, 2009 (and outlined in letter dated November 23, 2009), as discussed, subject to the following conditions:***

- 1. The access roadway serving Lots #1-4 shall be a minimum of eighteen feet (18') in width with the option to be reduced to sixteen feet (16') in width to serve the two (2) rear lots and the design of said access onto Hampton Road, including the apron, shall be subject to review and approval by the Department of Public Works;***
- 2. The driveway for Lot #5 shall not be located within the 25' "No-Cut" buffer;***
- 3. The Storm Water Pollution Prevention Plan (SWPPP) for the project shall be submitted for review prior to any site work commencing;***
- 4. A performance guarantee shall be provided to cover the costs of the following: private roadway, utilities, landscaping, drainage, erosion and sedimentation control measures and any improvements within the shoulder of the right-of-way (Hampton Road); and***
- 5. All other conditions of the approval granted by the Planning Board on November 23, 2009 shall remain valid. Condition #11 shall be modified to reflect the dates of this approval.***

***Motion was seconded by Ms. Sideris. VOTE: Unanimous. MODIFICATION OF CONDITIONAL APPROVAL GRANTED.***

#### **PAUL R. SLEMP – PB CASE #21003**

**The application for a minor subdivision of the property located at 4 Beech Hill Extension to create two new single-family residential lots. The subject property is located in the R-1, Single Family Residential zoning district. Tax Map Parcel #32-6.**

Chairman Plumer asked Ms. McEvoy if the abutters and public had been duly notified; Ms. McEvoy responded affirmatively. He asked if the application was complete enough for the Board to consider; Ms. McEvoy indicated the application was complete. ***Mr. Plumer moved to accept the application thereby beginning the 90-day clock for the Board to act; Mr. Campbell seconded the motion. VOTE: Unanimous. APPLICATION ACCEPTED.***

Attorney Mark Sullivan was present to address the Board on behalf of the Applicant. He acknowledged that his client, Mr. Paul Slemp was present in the audience. Mr. Slemp greeted the Board.

Attorney Sullivan explained that the proposed subdivision plan before the Board this evening was the same plan the Board had granted a conditional approval for on August 23, 2007 (PB Case #2712). He indicated that his client had not been successful in satisfying the conditions of that approval in a timely manner and the conditional approval had lapsed. He indicated that a revised driveway agreement had been submitted along with the new submission. Attorney Sullivan stated that he had spoken with Rockingham County Conservation District (RCCD) and that they were not requiring the test pits to be redone. He noted that no work had begun on the site.

Mr. Knowles inquired as to the applicability of the recently adopted wetlands overlay district ordinance and its new buffer requirements to this application. Ms. von Aulock replied that the plans were

acceptable; she noted that there was plenty of buildable land and there was no conflict with the forty-foot (40') buffer requirement. She noted that delineation of the 40' buffer would have to be added to the plan.

Ms. von Aulock continued and indicated that while speaking with the Fire Department regarding the previous case (Town Lyne Square S/D), she was also informed that they had a concern relative to this application and the existing twelve-foot (12') gravel driveway serving as access for the two (2) new lots being proposed. She noted that a condition of the previous approval for this property had required the Applicant to provide a "bump-out" (area provided for a vehicle to pull off the driveway to allow for another vehicle to pass, if necessary). She indicated that the Fire Department was now requesting a sixteen-foot (16') wide paved access.

Attorney Sullivan inquired as to what had changed subsequent to the 2007 approval to justify such a request. Ms. von Aulock responded that she was not certain what, if anything may have actually changed, although DPW had concurred with the Fire Department's request as well, and was also requesting road profile drawings of the proposed construction. Attorney Sullivan commented that this was an unreasonable request, and noted that neither department had a problem with the gravel driveway two years ago when it was initially proposed, so "why" now?

Mr. Paul Slemp addressed the Board and expressed his concerns with the Fire and DPW requests. He indicated that his home was at the end of the existing gravel driveway and that he currently maintains the entire driveway. He noted that there were several telephone poles located along the existing driveway that may restrict further improvement in certain areas. He stated that he did not wish to pave the private driveway due to the cost incurred to do so.

Mr. Campbell inquired why it couldn't just be a "buyer-beware" type of situation noting that there are plenty of gravel roads in New Hampshire. Ms. Bailey commented that the Planning Board could be opening the town up for a law suit if they choose to disregard the recommendations of the Fire Department and DPW. Mr. Campbell expressed his desire to have a meeting with these departments to discuss driveway/roadway safety issues and requirements. Ms. Bailey commented that if the Board were to compare this proposal to a new subdivision with a cul-de-sac, the Applicant would be required to comply with road construction requirements.

Ms. Sideris suggested that possibly scheduling a Technical Review Committee (TRC) meeting so the Applicant could discuss the issues with the town departments and have them conduct a site visit would be beneficial. Board discussion ensued relative to the improvements necessary to the existing gravel driveway in order to provide adequate and safe access to the two new lots. Ms. von Aulock indicated that given the concerns expressed by the Fire Department and DPW regarding the width and surface of the proposed access, she would agree that a Technical Review Committee meeting should be scheduled for further discussion of the issue with the Applicant. She also suggested that the application be tabled until the Board's April 8<sup>th</sup> meeting.

There being no further discussion at this time, Chairman Plumer opened the hearing for public testimony.

Mr. Bob Mathie, 6 Beech Hill Road Extension, addressed the Board. He inquired about the distance of the proposed roadway from his property line. He indicated that the gravel road had been existence for the 17 years that he has resided here. He spoke of the possibility for access to his property from the upgraded roadway. He asked to be kept "in the loop" as the Board decides what improvements will be required for the proposal. Ms. von Aulock requested that Mr. Mathie provide his contact information to Ms. McEvoy before leaving.

***Mr. Campbell moved to table further discussion of the application until the Board's April 8<sup>th</sup> meeting to allow adequate time for the Applicant to meet with the Technical Review Committee (TRC) and resolve the access issue; motion was seconded. VOTE: Unanimous.***

## **OTHER BUSINESS**

## **PB SUPPORT LETTTER FOR PLAN NH – 2010 Design Charrette – Exeter Train Station project**

Ms. von Aulock stated that she had been working with Ms. Theresa Walker from the Rockingham Planning Commission (RPC) on a 2010 Design Charrette Application being coordinated by Plan NH. She indicated that the application requests assistance with the creation of a Smart Growth redevelopment plan for the neighborhood surrounding the Exeter Train Station. She noted that one of the required documents to accompany the application was a support letter from the Planning Board. She read the draft letter of support into the record. ***Ms. Corson moved to authorize Chairman Plumer to sign the support letter for the application, as requested; second by Ms. Sideris. VOTE: Unanimous.***

**APPROVAL OF MINUTES: January 14, 2010 and January 28, 2010.**

**Mr. Campbell moved to approve the minutes of January 14, 2010, as presented; second by Ms. Sideris. Discussion:** Mr. Knowles noted that he had emailed Ms. McEvoy a request to amend the minutes to reflect that he had asked the hospital representatives how long they had owned the house on the corner of Auburn Street and Buzell Avenue and the hospital's response. ***Mr. Campbell moved to amend his motion to include the amendment as presented by Mr. Knowles; Ms. Sideris seconded. VOTE: Unanimous. MINUTES APPROVED.***

***Mr. Knowles moved to approve the minutes of January 28, 2010, as presented; second by Ms. Corson. VOTE: Unanimous. Ms. Sideris abstained.***

**TOWN PLANNER ITEMS**

Ms. von Aulock announced that all of the zoning amendments on the Town Warrant passed. Specifically relative to the new wetlands district overlay regulations, she noted that she was working with Natural Resource Planner Kristen Murphy and office staff on revising the current building permit application and creating a new Conditional Use Permit (CUP) application and checklist to assist residents in better understanding the regulatory process now required should their property be subject to the new regulations. She also added that the language of all the new zoning amendments would be mailed to the Board with their next mailing.

Mr. Campbell inquired if a public hearing on the remaining chapters of the Master Plan was scheduled for the Board's next meeting. Ms. von Aulock indicated there was not, noting that she had been quite occupied working on a conservation grant, a PowerPoint presentation for the annual Planning & Zoning conference and a NHDOT CMAQ grant for the Exeter Train Station. Mr. Campbell expressed his disappointment noting that it was a task that needed to be completed promptly.

**REPORTS ON "OTHER COMMITTEE" ACTIVITY**

Ms. Corson reported that the Zoning Ordinance Review Committee (ZORC) had met with Mr. Steve Whitman of the NH Office of Energy and Planning (NH OEP) to discuss the energy assessment program. She indicated that the OEP would review and recommend changes to the Town's current regulations to promote a more energy efficient and sustainable design basis for future development.

**CHAIRMAN'S ITEMS**

Chairman Plumer indicated that he had attended the annual meeting of the Rockingham Planning Commission (RPC) last evening. He also reported that the Seacoast School of Technology (SST) had participated in Ford's Drive One 4 UR School program on voting day (this past Tuesday, March 9<sup>th</sup>). He indicated that Exeter community members had the opportunity to participate and help raise up to \$6,000 for the SST for a new computer lab. He noted that Ford Motor Company and McFarland Ford donated \$20 (to the school) for every test drive of a 2010 Taurus, Fusion Hybrid, Escape and F150 vehicles.

There being no further business before the Board, ***Mr. Campbell moved to adjourn; second by Mr. Knowles. VOTE: Unanimous. The meeting was adjourned at 8:40 P.M.***

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