

EXETER PLANNING BOARD

MINUTES

DECEMBER 15, 2011

Vice Chairman Ken Knowles called the meeting to order at 7:00 PM in the Nowak Room on the above date.

PRESENT: Vice Chairman Ken Knowles, Selectmen's Representative Frank Ferraro, Members: Gwen English, Katherine Woolhouse, Alternate Members: Pete Cameron (7:30 P.M.), 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

81 HIGH STREET LLC – PB CASE #21115

The continued public hearing on the application for a minor site plan review and Conditional Use Permit for the proposed construction of two garage structures and associated site improvements on the property located at 81 High Street. The subject property is located in the R-2, Single Family Residential zoning district. Tax Map Parcel #71-97.

Mr. Dennis Quintal, P.E. with Civil Construction Management, Inc. was present to address the Board on behalf of the Applicant. He acknowledged that Mr. Steve Wilson and Attorney Ed Woicak were also present. He indicated that there had been previous public meetings and a site walk for this project. He reviewed the existing and proposed conditions plans and proceeded to address the concerns brought up during the last presentation to the Board.

Acting Chairman Knowles pointed out that the plans being presented this evening by the Applicant were not submitted in a timely manner for the Board to review. He indicated that the plans received by Board members in their mailing have subsequently been revised; he noted that it was not fair to the board members or to the public to be expected to review revised plans "on the spot" and render a decision. He suggested that the Applicant could continue with his presentation, although the Board would not render any decision on the application this evening.

Mr. Quintal continued and reviewed the proposed expansion of the planting and landscape areas. Mr. Ferraro inquired about existing and proposed lighting. Mr. Quintal identified the existing lighting on the site. Mr. Wilson identified the location of the proposed wall-pack units to be placed on the building, noting that none of the lighting is close to property lines so there would be no impact to abutters.

Acting Chairman Knowles inquired about the number of units being proposed in relation to the parking being provided. Mr. Wilson indicated that four less parking spaces were now required due to the number of units being reduced to fourteen (14). He stated that seventeen (17) spaces were required based on the parking requirements for 'elderly housing' – 1 space for each unit and 3 additional spaces for guest parking. He noted that the number of units had been reduced due to the proposed third floor addition being eliminated.

(Mr. Cameron joined the meeting at this time, 7:30 P.M.)

There was lengthy discussion regarding the layout of the parking and its practicality. Safety concerns were raised regarding inadequate turning radius, the size of the spaces being provided in the garages and width of the travel lane particularly given the proposed units were to be occupied by seniors.

Mr. Wilson responded that he would prefer to not add more paved area in an effort to minimize the site. He noted that treating the water due to the pavement (run-off) has already created the need for a waiver from the wetlands buffer requirements. He agreed to take another look at the 'backing' movement and radius concern related to the proposed parking in the existing barn (carriage house) and the possible relocation of the parking space adjacent to it (space #10 as depicted on plan).

Ms. English suggested that it would be more practical (and she thought also more desirable) to utilize the existing barn totally for residential use, and by doing so would also resolve one of the concerns relative to the parking.

Mr. Ferraro commented that suggestive areas were being discussed and he cautioned against attempting to redesign noting that it would be the developer's loss if the units were not desirable as constructed.

In conclusion, Mr. Quintal indicated that the site plan provided the standard square foot requirement for parking spaces and he had not received any direction to engineer the plans to depict any over-sized parking to accommodate SUV's, etc. Mr. Wilson indicated that he would be willing to relocate parking space #10 to provide for additional space for exiting the parking space in the existing barn.

At this time, Acting Chairman Knowles opened the hearing for public comment.

Ms. Cassandra Rodier, a resident of Emerson Commons, expressed concerns about the loss of green space and the proposed fence blocking their 'front yard' view of High Street. Mr. Wilson responded and described the details of the proposed fence and landscaping. He noted the proposed fence would begin approximately thirty-feet (30') back from High Street and run in a southerly direction along the property line abutting the Emerson Common property. He indicated that the first twenty-feet (20') would be four feet in height and slope up to eight feet in height for the remaining distance, ending behind the existing carriage house. He identified the proposed planting areas and landscape on the site plan.

Dr. Ernest Podasky, 86 High Street, commented that he was glad someone had come forward to make use of the property and that it would be revitalized. He did express his concern about the proposed covered parking (garages) compromising the beautiful view of the property from the street as well as from his residence. He indicated that the proposed garages were a 'desire' of the developer and not a necessity, and noted that they would not make the residential units any more desirable. He also expressed concerns about parking and turning movements on the site during snow events, the environmental impact to wetlands from drainage run-off and lighting pollution.

Ms. von Aulock requested Mr. Quintal to add a reference on the plan noting the increase(s) of impervious surface proposed. Mr. Quintal reviewed his calculations noting that there was a decrease of 940 s.f. in pavement, an increase of 2,300 s.f. in building coverage, a reduction of 500 s.f. associated with the walkways and patios, for a total increase of 865 s.f. of impervious area.

There being no further public comment, Acting Chairman Knowles closed the public portion of the hearing and Board discussion resumed. He summarized those items which the Applicant needed to address and added that a waiver request for grading within five feet (5') of the property line would also be required.

Mr. Ferraro moved to table further discussion of the application until the Board's January 12th, 2012 meeting; second by Ms. English. VOTE: Unanimous. Mr. Cameron abstained.

OTHER BUSINESS

RICHARD & SARAH SUGATT - PB Case #21010

The Board reviewed correspondence from Mr. Richard Sugatt, dated 12/7/11, in which he had requested an extension of the conditional approval granted by the Board for a lot line adjustment on Whippoorwill Lane. Ms. McEvoy indicated that the Applicant was still working to satisfy the conditions (i.e. legal documentation) of the approval granted by the Board on 12/9/10 and noted that a copy of the conditional approval letter was attached to Mr. Sugatt's correspondence for review.

There being no further discussion, ***Mr. Cameron moved to grant a one-year extension of the conditional approval, to now expire on December 9, 2012; seconded by Mr. Ferraro. VOTE: Unanimous. EXTENSION OF CONDITIONAL APPROVAL GRANTED.***

CONTOOCOOK RIVER LOFTS, LLC – PB Case #2711 (former Tuck Realty Corp.) a/k/a “Linden Commons” - Performance bond reduction request

Ms. von Aulock indicated that she had been working with Town Counsel on Mr. Chinburg's proposal for the reduction of his performance guarantee for the Linden Commons development. She stated that

although Town Engineer Paul Vlasich had expressed concerns and recommended that the Board adhere to the existing policy as outlined in Section 12 of the Site Plan & Subdivision Regulations, Town Counsel Jae Whitelaw had provided correspondence indicating that the process, as proposed by Mr. Chinburg, made sense and was consistent with their discussions. In her e-mail, Ms. Whitelaw did raise the concern that the proposal was contrary to the Board's requirements, and therefore the Planning Board must determine whether to grant a waiver pursuant to Section 13 (of their regulations) in order to release the requested amount. Ms. von Aulock did confirm that all site improvements had been completed except for the final (top) coat of asphalt, as Mr. Chinburg had indicated in his correspondence.

Mr. Eric Chinburg addressed the Board and made reference to his December 8th, 2011 correspondence regarding this request. He stated that he was proposing to post a maintenance bond in the amount of \$240,000., noting that this amount exceeded the 15% (of the original performance bond amount) requirement and offered to keep the bond in effect for a period of three (3) years. He explained that the current regulations require that a developer maintain a 20% retainage (of the original amount of the performance bond) until such time as the subdivision is built out or the final coat of pavement is completed and accepted by the Town. He stated that given the current economy and changes to the credit market (modifications made by the bonding/insurance companies and financial institutions), it has become more difficult, as well as costly, to purchase bond surety. Mr. Chinburg stated that all the appropriate inspections had been completed, and all parties were in agreement that the only remaining site improvement to be completed was approximately \$39,000. worth of paving. He represented that a cost contingency had been included to insure price increases in asphalt would be covered, and a 30% retainage (based on the sum of the budgeted asphalt cost and proposed contingency) was added for a total of \$63,809. to be maintained as a performance bond. It was noted that the Town was currently holding \$354,794.91 and a proposed reduction in the amount of \$290,985.91 was being sought.

There was continued discussion relative to the mechanics of the maintenance bond process. Mr. Ferraro asked if Mr. Chinburg was able to anticipate when the top (final) coat of asphalt would be installed. Mr. Chinburg replied that the subdivision was still under construction, and in accordance with the Town's regulations it would not be acceptable at this time.

Mr. Ferraro clarified that a two-year maintenance bond, with written commitment being received prior to the performance bond reduction being processed, and to become effective (for the two-year period) at such time as the final coat of asphalt is installed and the road is accepted by the town would be appropriate. He indicated that he was agreeable to the performance bond being reduced to \$63,809, as represented.

Ms. von Aulock commented that she was confident that the Town's interests would be protected should the Board decide to act favorably on this request, although, was reluctant to propose any amendment to the Board's regulations as suggested by Town Counsel. She indicated that she would prefer to see the Board address these types of requests on a 'case-by-case' basis.

Acknowledging the presence of abutters to the Linden Commons project in the audience, Acting Chairman Knowles asked if anyone wished to speak on the matter.

Mr. John Balsler, President of the Board of Directors for the Exeter Cooperative MHP, approached the microphone. He indicated that the park had some concerns regarding the drainage issue created by the construction of the emergency access road. He explained given the heavy rain events we have experienced lately, it did not appear that the drainage treatment structures were working properly and as a result shedding excess water into their sewer system (pump station area). He also mentioned they had some concerns about the emergency gate itself, but understood that the issue would have to be addressed directly with the developer.

Acting Chairman Knowles recalled that a similar concern regarding the emergency access road had been raised by the park residents at a previous meeting. Ms. von Aulock indicated that she has requested the site inspector to visit the site on several occasions to respond concerns of the park residents. She commented that with Mr. Chinburg present this evening, he would now be aware of their concern and can work with the Board's site inspector to correct the problem. The Board asked for affirmation from Mr. Chinburg that the issue would be resolved; Mr. Chinburg responded affirmatively.

Ms. Leona Nelson, a resident of the park, inquired about obtaining a copy of the compliance list submitted for this request and the Town Engineer's comments. She expressed some concern about the installation of the 8' box culvert (running under the road) and it draining into the wetland stream area. She indicated that the construction detail drawings on the subdivision plan did not depict pipes in the bottom of the culvert. She expressed concern that it may not be in compliance with the plan. She asked if the PB Site Inspector could also take a look at that when he visited the site.

Acting Chairman Knowles explained that the documentation (recommendation and calculations) being requested was included in the memo received by the Board from Town Engineer' Paul Vlasich. A copy was provided to Ms. Nelson.

Ms. von Aulock stated that she would contact Site Inspector Jeff Hyland and explain the concerns discussed this evening and arrange for a site inspection to be conducted. She mentioned that if anyone wished to join Mr. Hyland during his site visit, to please leave their contact information with Ms. McEvoy.

There being no further discussion, Acting Chairman Knowles closed the public portion of the hearing and Board discussion resumed.

Mr. Ferraro moved to reduce the performance bond, in the amount of \$290,985.90, (leaving a balance of \$63,809.) as requested, subject to receipt of a Maintenance bond, in the amount of \$240,000.00 for a period of two (2) years, and said bond to become valid at such time the final coat of paving has been installed and the Board of Selectmen accept the road(s) in the subdivision.

Ms. English inquired about a waiver being necessary to reduce the performance bond in the manner being requested. She referred to the e-mail received from Town Counsel indicating that a waiver in accordance with Section 13 of the Board's Site Plan and Subdivision Regulations would be the appropriate action for the Board to take in order to act favorably on the request. ***Mr. Ferraro moved to grant a waiver from Section 12.2.1 in order to act on the performance bond reduction request, as presented; second by Ms. English. VOTE: Unanimous.***

Ms. English moved that the motion as previously stated by Mr. Ferraro be moved forward; seconded by Mr. Ferraro. Discussion: It was clarified that the Maintenance bond documentation would be submitted at this time with the understanding that it would become valid as stated in the motion. VOTE: Unanimous. PERFORMANCE BOND REDUCTION GRANTED.

CONSIDERATION TO PURCHASE Tax Map Parcel #72-129 (a/k/a "Getty" property) - 1 Bow Street

The Board addressed a memorandum received from Town Manager Russ Dean (through the Board of Selectmen), dated 12/7/11, regarding the proposed purchase of Map #72-129, the former "Getty" station property on the corner of Court and Bow Streets. The memorandum explained that an opportunity had arisen for the Town to acquire this piece of property which directly abuts the public safety building. It was noted that the agreed upon purchase price was \$49,000. and the funding for said purchase would come from the 2011 town budget. In accordance with RSA 41-14-a, the Board of Selectmen has noticed the Planning Board and Conservation Commission of their intent. Recommendations from both the Planning Board and Conservation Commission were requested in a timely manner to facilitate further discussion of this matter at the December 19th, 2011 Board of Selectmen's meeting.

Mr. Ferraro provided a brief explanation of the request noting that the property had been vacant for an extended period and was in the state of disrepair. He indicated that the owners of the site had approached the town with the offer to purchase for \$49,000. He added that as part of the process, due diligence was being done due to its former use as a gas station. Mr. Ferraro noted that it was his understanding that an environmental study and remediation had taken place although he had not yet seen any documentation, but expected that it would be on file with NH Department of Environmental Services.

Acting Chairman Knowles inquired about potential uses for the property. Mr. Ferraro responded that there was no definitive use of the property proposed at this time, other than to potentially remove the existing structures and get the site cleaned up. He commented that the acquisition would give the town

the option for expansion of the Public Safety Complex or for additional parking in the future. Acting Chairman Knowles asked if the demolition would be done by town personnel. Mr. Ferraro commented that it was unknown at this time, and noted that the Board of Selectmen would be discussing the issue at their December 19th, 2011 meeting.

At this time, Acting Chairman Knowles asked if there was anyone present who wished to speak on the topic. There was no public comment; Board discussion resumed.

Mr. Cameron expressed that caution must be used with respect to environmental consequences. Ms. von Aulock mentioned that the town had been working with Ms. Teresa Walker at the Rockingham Planning Commission (RPC) regarding those sites involved in the regional Brownfield program. She indicated that she was also participated on that committee, but had not reviewed any of the materials relative to the subject site. She mentioned that she would expect that Mr. Dean already had or would be contacting Ms. Walker for pertinent information.

Acting Chairman Knowles mentioned the property would be removed from the tax roles as a result of the town purchase. There being no further discussion, he asked if the Board was prepared to make a recommendation.

Mr. Cameron made the motion to recommend that the Board of Selectmen move forward with their intent to purchase the parcel subject to appropriate environmental reviews being conducted; second by Ms. English. VOTE: Unanimous. Mr. Ferraro abstained.

CONTINUED PUBLIC HEARING: PROPOSED ZONING AMENDMENTS FOR 2012 TOWN WARRANT

First public hearing on the proposed amendments to the Town of Exeter Zoning Ordinance. (*Copies of the full text of the proposed amendments are available at the Planning Department Office in the Town Office Building.*) The proposed amendments to be discussed are as follows:

- 1. Amend Article 2 Definitions by adding a new definition as follows: "Abandonment: To stop the use of property or activity without the intent to resume. When the use of a property has ceased and the property has been vacant for 12 months, abandonment of use will be presumed unless the owner can show that a diligent effort has been made to sell, rent, or use the property for a legally permissible use. Signs that are not in use for greater than one year will also be considered to be abandoned, regardless of the intention of the property owner." Also renumber sections in Article 2 and correct definition references throughout the ordinance as needed.***

Ms. von Aulock indicated that the wording of this amendment had been slightly revised subsequent to the original posting, therefore requiring it to be reposted for formal action at the January 12th, 2012 meeting. Board members were provided copies of the revised wording for review and it was noted that the revision had been made at the recommendation of Town Counsel.

Acting Chairman Knowles opened the hearing for public comment.

Mr. John Balsler, President of the Board of Directors for the Exeter River Cooperative Mobile Home Park, inquired about the applicability of the proposed amendment to the mobile home park. It was clarified that the proposed amendment, as written, was providing a definition for the zoning ordinance and would not be applicable to the mobile home park (i.e. on an individual unit basis).

There being no further public comment, Acting Chairman Knowles closed the public hearing. There was no action taken by the Board.

- 2. Amend Article 5.7.3.D.1, Right-of -Way Limitations to read as follows: "No sign shall be erected or placed within any traffic median or any public sidewalk or bicycle path except as provided in Section 502.2 of the Town Ordinance.***

Ms. von Aulock noted that the wording of this proposed amendment had also been changed after the original posting and would be reposted for the January 12th, 2012 meeting. She noted that the purpose

of the proposed amendment was to provide reference to the recent changes made to Section 502.2 of the Town Ordinance by the Board of Selectmen signs/displays permitted within the Town rights-of-way.

Acting Chairman Knowles opened the hearing for public comment; there being none and the public hearing was closed. There was no action taken by the Board.

3. Amend Article 5.7.7, Sign Ordinance for the Historic District-Commercial Zoning Districts by revising the title "Commercial" to "Non-Residential" to make the title consistent with the title of Article 5.7.5.

There being no Board discussion, Acting Chairman Knowles asked if there was any public comment; there was none and the public hearing was closed.

Mr. Cameron moved to sponsor the proposed amendment, as written, to be placed on the warrant for 2012 Town Meeting; seconded Ms. Woolhouse. VOTE: Unanimous.

APPROVAL OF MINUTES: It was determined there was not an appropriate quorum of members present to take action on the minutes of November 17, 2011. Action deferred to the Board's next meeting on January 12th, 2012.

REPORTS ON "OTHER COMMITTEE" ACTIVITY

Ms. von Aulock reported on the progress of the ZORC (Zoning Ordinance Review Committee) noting that they had been researching the issue of "Form Based Codes" and had subsequently established a subcommittee which has been meeting regularly. She also noted that the committee had begun discussions regarding "elderly housing".

TOWN PLANNER ITEMS

Ms. von Aulock extended "*Happy Holidays*" greetings to the Board, the audience and all of the viewers at home. She offered a reminder about the Holiday Raffle being sponsored by the Planning Office in conjunction with the Welfare Department, noting that tickets were available in the office and the drawing would take place on Thursday, December 29th, 2011.

CHAIRMAN'S ITEMS - None

There being no further business before the Board, ***Mr. Ferraro moved to adjourn; second by Ms. Woolhouse. VOTE: Unanimous. The meeting was adjourned at 9:35 P.M.***

The next meeting of the Exeter Planning Board will be held Thursday, January 12th, 2012 at 7:00PM in the Novak Room at the Exeter Town Offices.

Respectfully submitted,

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

:bsm