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Exeter Zoning Board of Adjustment meeting.

EXETER ZONING BOARD OF ADJUSTMENT OCTOBER 19, 2010 MEETING MINUTES

Present:

Chairman: Hank Ouimet.
Vice Chairman: Marc Carbonneau.
Regular Members: Steve Cole, John Hauschildt, Robert Prior.
Alternate Members: Patrick Driscoll.
Deputy Code Enforcement Officer: Barbara McEvoy.

The meeting convened at 7:03 PM.

Agenda:

1. Case #1404: Special Exception & Variance request(s) - rehearing. 77 Kingston Rd/RiverWoods.
2. Case #1410: Variance request. 10 Columbus Ave. /MON-KAL.

New Business:

1. Case #1404:

A rehearing on the application of RiverWoods Company at Exeter for a special exception per Article 4, Section 4.2 Schedule I: Permitted Uses to permit the property located at 77 Kingston Road to be developed for a proposed elderly congregate health care use in conjunction with the abutting RiverWoods facilities; and a variance(s) from Article 6, Section 6.1.2 D. to permit encroachment of the proposed structure within the required 100-foot landscaped perimeter buffer (front and side yard) required for elderly congregate health care facilities. The subject property is located in the R-1, Low Density Residential zoning district. Tax Map Parcel #97-43.

(Mr. Prior stepped down at this time. Mr. Driscoll remained in the audience).

Attorney Charlie Tucker approached the board at this time and stated that he was representing the applicant and that the applicant was okay with four board members for the hearing. Attorney Tucker then gave the board a quick recap of the hearing to date. He mentioned that on August 17, 2010 the board denied the special exception request and on September 21, 2010 the board granted a rehearing which is what will be presented this evening. Attorney Tucker also mentioned that if the board grants the special exception request this evening, the applicant will proceed with the variance request.

Continuing, Attorney Tucker stated that two issues raised by the board at the last hearing have been addressed. Firstly, all abutters to the subject property at 77 Kingston Road and The Ridge and Boulders property were notified of this hearing. He also mentioned that RiverWoods sent letters (unofficially) to the Woods' residents about the hearing. Attorney Tucker then stated that the applicant has completed lot merger paperwork for the Reedy property (77 Kingston Road with a Fire Station) and the White Oaks Drive "wedge" with the entire Ridge parcel. (The Boulders is a separate lot.)

Attorney Tucker then began a discussion of special exception criteria that the board had an issue with at the last hearing. He referenced "A" 5.2.A. permitted uses in the R-1 zone. He mentioned that regarding special exception criteria for elderly congregate health care, the applicant has met the criteria. He also mentioned "C" and that from 1948 – 1968 zoning was on the warrant and repeatedly denied and that it wasn't until 1968 that zoning was adopted with the determining subject being mobile home parks. Continuing, Attorney Tucker stated that in 1972 comprehensive zoning was adopted and used as a baseline for criteria. He mentioned pre-1972 houses and post 1972 such as the Pickpocket Woods, Blackford and Marshall Farms neighborhoods, which are all single family residence developments. He also stated that there are a small number of multi-family homes in the area.

Regarding the proposed building, it was mentioned that it will be visually residential and will fit into the neighborhood. All parking will be in the rear and there will be access off of White Oak Drive. Attorney Tucker also stated that the applicant wants to keep the horseshoe driveway (NH curb cut) and that once the Fire Station is built, the applicant will relinquish their right to this access. He also mentioned that the Fire Department wants access off of Kingston Road (Rt. 111) and that the Fire House agreement with the town was signed in August of 2010 and \$150,000.00 was put into the capital reserve fund for the Fire House. Attorney Tucker then stated that Epping Road needs to be built first then this site will be pursued.

The proposed office building, according to Attorney Tucker, will be utilized by River Woods' Administrative staff and will include meeting rooms for resident committees from all three facilities. It was mentioned that letters of support for the project were included with the application and that one is being submitted this evening from Mike Dalton of 55 Kingston Road.

Attorney Tucker then said that the applicant meets all of the criteria for special exception and requests that the board grant the approval. He also clarified that the proposal has less square footage than the previous house and barn on the site.

(At this time there was discussion with the TV filming crew and it was determined that filming was ok).

Mr. Carbonneau mentioned that the lot merger was executed but not recorded as this time and Deputy Code Enforcement Officer Barbara McEvoy confirmed this. Mr. Carbonneau clarified that the special exception will be for a specific portion of the property being merged.

Mr. Cole mentioned that the use of the circular driveway will be prior to the Fire Station being constructed. Ms. Barker of RiverWoods stated that the circular driveway will remain but will not be used.

At this time, the chairman opened the hearing to public testimony.

Speaking in favor of the application, Robert Lietz of 3 Tamarind Lane, a member of the board of directors of RiverWoods approached the board and mentioned that there were 600 residents and 400 employees at Riverwoods and that it was important for the campus to have a unified building. He mentioned that management has currently run out of room at the Woods location. He also stated that council members, and guests were all welcome at all three campuses and all three locations were used for board functions. Mr. Lietz then stated that the project will provide some additional space for management in this central location and the parking will be in the rear.

Ms. Katherine Southworth, a resident of RiverWoods and member of the resident council approached the board at this time. She stated that there are over forty committees at RiverWoods and there is a need for more space for office records and storage.

Mr. Frank Ferraro of Greenleaf Drive, a neighbor of the Boulders, approached the board. He mentioned that the Town of Exeter Master Plan encourages connection of communities and that RiverWoods is a multi-generational community and good corporate citizen. He also stated that the proposal will have no negative impact to the abutting communities.

Mr. Robert Lannon of 78 Kingston Road approached the board. He mentioned health care use of the property and the office building and stated that this will create precedent for further office development.

Mr. Safford of 4 Split Rock Road mentioned that he is concerned with the approach of the project and that it appears to be sprawl. He also stated that an office has specific needs and could have been incorporated into the Boulders whereas the use was in mind when the property was purchased. Mr. Safford also asked if medical or business offices, such as banks, would be permitted in the future for their residents' needs.

Mr. Robert Prior of 16 Pickpocket Road approached the board at this time. He stated that a lack of planning of RiverWoods should not be a crisis for residents of the R-1 district and that this proposal could have been discussed earlier on in the planning process. Mr. Prior also mentioned that RiverWoods has changed the nature of his neighborhood which are all post 73 residences and none of the RiverWoods facilities are visible from public roads. Continuing, Mr. Prior mentioned phrases used at a past meeting including administrative facility and centralized staff and that these descriptions do not include any uses defined in elderly congregate health care facility. He also mentioned that he has driven all roads in the R-1 zone and there are no offices in this district. Mr. Prior then stated that he understands a lot merger has been completed to consolidate parcels and that it is more than likely they will not sell, but the possibility exists and could change the use. He then stated that this proposal is not compatible with the R-1 uses, is inappropriate for a neighborhood and that Pickpocket Road is a scenic road.

Ms. Harriet Petrulio of 15 Runawit Road approached the board at this time. She read a prepared statement in opposition and mentioned the proposal as being an administrative use and that there is ample room within the existing facilities for office space. She also mentioned that the proposed building and use would not fit in with the neighborhood. Ms. Petrulio then stated that it is the responsibility of the ZBA to preserve the heritage of the rural neighborhoods.

A resident of 1 Indian Trail mentioned that he has lived in the Pickpocket Woods neighborhood all of his life and he mentioned that RiverWoods has been changing their story over the years. He then mentioned that the new building was part of the expansion plan and asked where does it stop? He also stated that the existing farm house was picturesque.

Mr. Paul Roberge of 15 Pickpocket Road approached the board at this time. He stated that he directly abuts the access road and is concerned with encroachment or sprawl and that he does not believe that the office building will be the end of development. He mentioned that he anticipates RiverWoods will urbanize.

Mr. David Eaton of 6 Pickpocket Road stated that he does not prefer that an office building be constructed so close to his home.

Ms. Karen Prior of 16 Pickpocket Road addressed the board at this time. She read a letter from Sheila Roberge which addressed environmental issues, pervious pavement, salt, lighting and more and stated that the issue is all about the office use. She also mentioned that what the ZBA may approve may be changed by the Planning Board.

Ms. Laura Davies of 20 Pickpocket Road stated that the proposed building will not look residential and will have signage, parking and lighting. She mentioned that she is concerned with the future office uses

(medical etc.) and concluded by stating that office use is not permitted in the R-1. It was also mentioned that there is 834,242 square feet of buildings in the three RiverWoods facilities and that equals 19.15 acres of building area.

Ms. Lisa Burke McCoy of Pickpocket Woods approached the board at this time. She stated that she has watched the road change over the years and is asking the board to preserve their way of life and the beautiful residential area.

In rebuttal, Attorney Tucker stated that there is 190 acres all together and that there are large green/open space areas at RiverWoods. He stated that a single family development would create more impact for the environment and that an administrative office (not medical) is essential to the organization of the facilities. Continuing, Attorney Tucker stated that there are three free-standing maintenance buildings on the campus and these buildings are considered accessory to the primary use. He then stated that the Reedy farm house had a sign business in it for years and that the Planning Board insisted on full connection between Pickpocket Road and Brentwood Road through Blackford and Greenleaf. Attorney Tucker also mentioned that the Reedy house was perpendicular to the road and the barns were horizontal. He stated that he understood the concerns of the neighbors regarding the plight of commercial sprawl, but visually, this proposal does not look commercial and will not encourage or attract traffic.

Mr. Hauschildt mentioned that single family home use would be consistent with residential use of RiverWoods and that he understood Attorney Tucker's point.

Continuing, Attorney Tucker stated that interior lighting will be subdued and it will appear as a residential home from the outside. He also stated that minimal lighting will be used in the parking area.

Mr. Carbonneau asked if this would be an ancillary use to the elderly congregate healthcare facility.

Chairman Ouimet mentioned that the zoning ordinance implicitly includes administrative use as part of the health care use.

Attorney Tucker then mentioned that the applicant would still need a special exception if the proposed use was for additional units.

Mr. Cole asked where prospective customers go now?

Ms. Barker of Project Manager at RiverWoods stated the Woods' facility.

Mr. Mark Hepp, project engineer for RiverWoods addressed the board and stated that there is no visual identification as "office."

Mr. Cole asked about lighting.

Ms. Barker stated that the applicant has no intention of lighting other than a possible lamppost and porch/garage light and that they would use normal residential lighting fixtures.

Attorney Tucker stated that the applicant would accept a condition on lighting.

At this time, the Chairman closed the public hearing.

DELIBERATIONS

Mr. Carbonneau commented that the applicant is attempting to address abutter concerns regarding visual issues with the proposal. In regard to compatibility, he mentioned that post 1972, the area is all residential with RiverWoods itself.

Mr. Hauschildt mentioned that the use is permitted due to the merger.

Chairman Ouimet mentioned that the applicant was extending to the road and RiverWoods does not currently have any frontage now. He also stated that he is hung up on "C" because all surrounding development (pre-and post- 1972) is residential.

Mr. Hauschildt stated that "H" also presents a problem aesthetically regarding the design component.

Mr. Cole said that legally the applicant has the right to do the projects but he is not sure if it is the right thing in the proposed location.

The board had a lengthy discussion at this point regarding the post 1972 development issue, elderly congregate healthcare facility uses in residential areas and aesthetic issues regarding this proposal.

Mr. Carbonneau stated that in regard to "C" or post 1972 development, the issue is compatibility vs. aesthetics. He mentioned that the area is all single family residential other than RiverWoods itself.

At this time, Mr. Carbonneau began a review with the board of the special exception criteria. The board determined that "A" was okay, "D" would be addressed at the Planning Board and "E" was okay. Regarding "F," the setbacks do not conform but the applicant has applied for a variance. The board agreed that "G" was okay, "H" was okay whereas retaining the residential use should not affect the property values and "I" and "J" were not applicable. The board had previously discussed issues with "B" and "C."

The board also agreed that signage, lighting and no front access issues need to be considered.

MOTION: Mr. Carbonneau moved to approve the special exception subject to Planning Board approval with special attention to signage, lighting, aesthetics, landscaping and no access from Kingston Road.
Mr. Cole seconded.

In discussion, Mr. Carbonneau and the board discussed lighting and agreed to a revised motion. The revised motion is as follows:

MOTION: Mr. Carbonneau moved to approve the special exception subject to the following:

- 1. Planning Board review.**
- 2. Signage with none being on Kingston Road or Pickpocket Road.**
- 3. Lighting is to be residential in character.**
- 4. Landscaping and screening need to be residential in character and approved by the Planning Board.**
- 5. There will be no vehicular access from Kingston Road.**

Mr. Cole seconded.

The vote was 2-2. Chairman Ouimet and Mr. Cole voted Nay.

The motion failed. The special exception request was denied.

The board took a recess at this time and reconvened at 9:45.

2. Case #1410:

The application of MON-KAL, LLC for a variance from Article 12, Section 12.4 seeking relief from the three-year limitation on a previous special exception approval granted on July 17, 2007 (Case #1334) for the proposed construction of nine (9) single-family detached condominiums on the property located at 10 Columbus Avenue (former VFW Hall site). The subject property is located in the C-1, Central Area Commercial zoning district. Tax Map Parcel #73-149.

(Mr. Prior was re-seated at this time.)

Mr. Christian Smith of Beals Associates approached the board on behalf of the applicant. He mentioned that the applicant was out of town at a conference. He then began a review of the project to date. Mr. Smith mentioned that the applicant was continuing with the proposal. He stated that he became involved with the project in 2009 and reviewed the design. Mr. Smith also stated that the applicant has had a technical review in March and July of 2010 and will be going to the Planning Board October 28, 2010.

Continuing, Mr. Smith stated that the ZBA approval had expired and that the title work was on-going. Other factors involved in the project needing an extension would be the economy and that a previous partner walked away from the project. He also stated that this was an after the fact request, whereas the staff discovered the expiration of the approval when the project was being reviewed.

Mr. Carbonneau asked if the applicant needed any modification for seven (7) units.
Ms. McEvoy stated no.

Mr. Smith then asked the board to extend the approval as approved originally.

At this time, the Chairman opened the hearing to public testimony.

Mr. Roger Black of Spruce Street addressed the board at this time. He stated that he is an abutter and is concerned with flooding. He also stated that within the time frame/expiration no development has occurred and it seemed like the project had been abandoned. Mr. Black also mentioned that the property is currently being leased.

In rebuttal, Mr. Smith stated that the rental situation was halted by the Code Enforcement Office and Planning Office.

The Chairman closed the public hearing at this time.

Chairman Ouimet stated that there was no need to review the merits of the original case and he thought the board would more than likely approve the project again.

Mr. Carbonneau stated that there are serious title issues with the project and there may be a lengthy resolution.

Mr. Prior stated that there has been a good faith effort by the applicant to move the project forward. He also mentioned that needing an extension from the three year limit was a sign of the times given the economy and circumstances.

Mr. Carbonneau mentioned that the zoning criteria have not changed.

MOTION: Mr. Carbonneau moved to approve the variance request subject to the approval expiring in three years. Expiration will be 7/17/13.
Mr. Cole seconded.
The motion passed unanimously.

Other Business:

1. Minutes: September 21, 2010.

The following corrections were to be made per the board:

Page 3, first paragraph during deliberations, change the word “proposed” to “necessary.”

Page 4, last line in the motion, Mr. Ouimet voted Nay, not Mr. Hauschildt as written.

MOTION: Mr. Carbonneau made a motion to approve the September 21, 2010 minutes as amended.
Mr. Hauschildt seconded.
The motion passed unanimously.

2. New board member.

Mr. Patrick Driscoll was introduced to the board and viewers as the new alternate to the Zoning Board of Adjustment.

3. NH Office of Energy and Planning Conference.

Mr. Hauschildt mentioned that the conference was coming up and it was time to register.

4. ZBA handbook.

Mr. Driscoll needs a 21st Century Variance book/ handbook forwarded to him.

5. Next month.

Mr. Prior and Mr. Carbonneau would not be available for the November meeting.

MOTION: Mr. Carbonneau made a motion to adjourn.
Mr. Cole seconded.
The motion passed unanimously.

The meeting adjourned at 10:15PM.

The next meeting of the Zoning Board of Adjustment will be held Tuesday, November 16, 2010 at 7:00PM in the Novak Room at the Exeter Town Offices.

Respectfully Submitted,

Christine Szostak
Planning & Building Departments Secretary