

EXETER PLANNING BOARD

MINUTES

JUNE 20, 2013

revised

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

PRESENT: Chairman Ken Knowles, Vice Chairwoman Kathy Corson, Selectmen's Representative Frank Ferraro, And Members: Gwen English and Pete Cameron (7:30 P.M.), Alternate Members: Kelly Bergeron, 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

FELDER KUEHL PROPERTIES, LLC - PB CASE #2526

This is a request for an amendment to a previously approved site plan for the multi-family residential development located on Meeting Place Drive. The proposed amendment will incorporate the abutting parcel located at 10 Industrial Drive into the multi-family development and will provide for the expansion of the open space and trail network while increasing the residential density permitted for the existing residential development. The subject properties are located in the Industrial and R-4, Multi-Family Residential zoning districts: Tax Map Parcel #54-2 and #55-75-1.

Chairman Knowles asked Ms. von Aulock if the abutters and public had been duly notified; Ms. von Aulock responded affirmatively. She asked if the application was complete enough for the Board to consider; Ms. von Aulock indicated the application was complete. ***Ms. Corson moved to accept the application thereby beginning the 90-day clock for the Board to act; Ms. English seconded the motion. VOTE: Unanimous. APPLICATION ACCEPTED.***

Present: Dana Lynch- from Civil Works, Attorney Mike Donahue & Applicant-Bob Felder:

The ZBA granted a variance a few weeks back explains Dana Lynch. He described going through the calculations and analysis which shows this scenario called "Approved *Without* Map 54 Lot 2". The current proposal called "With Map 54 Lot 2" shows an allowable density amount of units of 144, the current proposal is 140.

ZBA approval set forth three conditions:

- 1) Two parcels be combined- Dana Lynch explained they will do a voluntary lot merger.
- 2) Approval of amended site plan- by adding the units with approval of the planning board-the
- 3) Applicant shall execute and record the conservation easement incorporating the additional land over to Industrial drive.

No change of the originally approved plan back in 2009, it will remain the same. Changes to the buildings 3 & 4 will provide additional units from the current approval for 122 to 140 units to the interior. Building 4 will be designated for the elderly. There would be no site plan changes to the amount of pavement, parking & utilities. Dana Lynch explained the trails network would be Mr. Felder's undertaking.

Ms. Corson asked if there would be trail head parking signage and if there was going to be more parking. Mr. Lynch explained that there wouldn't be any pavement expansion only widening the shoulder for a few cars, but not enough to affect the utilities there, and that there would be access from Industrial Drive.

Mr. Donahue expressed that extra parking will be available to the trails from Industrial Drive. Ms. English asked Mr. Donahue about the Conservation Commission aspect of the proposal. He said it would be like the first easement and will be amended to reflect the additional land. The trail network will be created by Mr. Felder. He showed access from Norrisbrook via an existing bridge, and another bridge being constructed.

Ms. Von Aulock asked for a Trailhead signage to be designated for trail users. Mr. Donahue explained once again that signage would be posted at the Trailhead on Industrial drive under Mr. Felder's trail network.

Mr. Knowles announced it was time to open up to the public, no public stood, board members were asked to vote, **it was approved to amend Site Plan Consolidation, Ms. Corson made the motion and Ms. Woolhouse seconded, and the vote was unanimous in favor.**

ALLEN LAMPERT TRUST (etal) – PB CASE #21311

A request for a preliminary conceptual review of a proposal to redevelop several properties located on Franklin Street and Clifford Street for residential and/or commercial uses. The properties are located in the WC-Waterfront Commercial, C-1 Central Area Commercial and R-2 Single Family Residential districts. Tax Map Parcels #72-70, 72-71, 72-72, 72-74, 72-75, 72-77 and 72-122.

Mr. Knowles elaborated that any comments from the board are non-binding as this is a preliminary conceptual review.

David Choate with Commercial Real-Estate Firm - Colliers International in Portsmouth. He explained that he has been working with the Lamperts for quite a while, first to relocate them with the move from Franklin Street to Epping RD. Now they are left with what to do with the downtown property, the current properties they own on Franklin Street; they would like generate and develop those properties into a neighborhood. They've had meetings with Mr. Dean- Town Manager, Ms. von Aulock- Town Planner and Mr. Eastman- Building Inspector.

Mr. Choate distributed the tax map of the mixed zoning districts in C-1, R-2 & WC. There is opportunity for the area to be developed as a neat adjunct neighborhood to downtown with new street sidewalks, period lighting, and redevelopment of property and possibly new buildings. The Lamperts are hoping to make a positive development and not just an urban development which might add more asphalt, but adding to the neighborhood, and would sell to one developer to complete this project as one vision.

Robert Cruz from **TFMoran** in Bedford put together these visions and concepts. Mr. Cruz met with Ms. Von Aulock recently, and she asked them to provide examples of previous projects. One of them was the Waterfront Park- Market Place in Bedford. Also, they received the "2012 NH Sustainability Award", in Goffstown.

Two concepts- A & B mix of commercial and residential. A) The proposal of 7 townhouses, 3 stories high with garage under. They are working with Tom House, the architect and they are not ready to commit to specific designs. Approximately the units will be 900-1050 square feet. They will be upscale townhouses. The commercial use where the garage is now, they intend to include a vest-pocket park (parking that is accessible to the public). The R-2 area further down the street would have parking in the back of the buildings. B) The alternative would have parking in the front of R-2 with a yard in the back.

Chairman Ken Knowles announced Pete Cameron rejoined the Planning Board at 7:30 PM. Mr. Knowles asked the board for questions and concerns. Gwen English asked about buried tanks and environmental issues concerning contamination. Michael Lampert addressed this concern and explained they did the Phase II: Brownfields Program, the only concern was the white building- he stated, "It is the oldest standing garage in the state of New Hampshire." He continued to say there were old gas tanks underground and residue was found in the clay, the testing has been done and it has been accepted by the Department of Environmental Service, Brownfields and with the Lamperts deductible, it will be cleaned up when the project starts.

Ms. English also asked how reasonable would it be to redesign the road? Mr. Cruz questioned a roundabout. He also suggested keeping the buildings against the road with parking at the rear. Ms. English expressed being able to see the buildings rather than the cars on the street would be a nice view. Mr. Cruz suggested possibly trees and a fence. Ms English expressed more concerns at the river's elevation.

Mr. Choate talked about the need to address issues with zoning that may prevent such development, such as parking, setbacks and he agreed with having parking in the back of the buildings. The nice urbanization of this project may spark more high quality development in the future.

Ms. Bergeron agreed with Ms. English seeing the parking in the back and also including the Blue Moon restaurant. Ms. Corson announced that zoning has shared parking already. Ms. Bergeron asked if there will be 3 levels with parking being at street level.

Ms. Corson expressed that Long Block looks nice and something new that looks or fits in with what is already there, possibly commercially, possibly a restaurant at ground floor. Also, how could the Blue Moon Restaurant parking become a shared property? With the Form Based Code, she expressed missing an opportunity to add something commercial, being friendly with the river, but also helping with expanding the commercial aspect of Exeter.

Mr. Cruz disputed banking for commercial vs. residential property probably wouldn't get credit for this location. Ms. Corson expressed it is a commercial area, and used Newmarket, as an example as commercial property there.

Mr. Choate expressed that office space in Exeter is soft right now. The intersection at Water St. and Franklin St. could be more pedestrian friendly Ms. Corson asked if this project could be a bit denser to get more out of this plan, and to help keep the corner commercial. She said the large parking lot isn't needed if this does go residential.

Mr. Ferraro expressed that 81% think it should be commercial. He would like to see balancing the tax base and having the mix of both commercial and residential would be a segway from the retail downtown area into residential, especially with a possibility of a restaurant food or a shop. Frank said he was glad the plan for the roads are not changing as people understand the intersection and know what to do now, and messing with the roads would confuse them.

Frank expressed that Exeter has 2700 sq. ft., 3 bedrooms. Family's that move into town, their taxes don't pay for schools and town services. He liked the parking in the back, it's a nice concept. He questioned Mr. Cruz, was there a possibility that this will be sold to somebody. Mr. Choate, expressed the project will not be sold until it's finished. Mr. Choate addressed Ms. Corson's suggestion of commercial use on the bottom floor with residential 2 floors above. Mr. Choate expressed that over time residential tenants don't necessarily leave their residence as they are older and retired, some people work from home and then there is a parking situation, he mentioned this situation is happening over in Portsmouth where his office is. This theory worked back in the 80's, but the parking situation is worse. He mentioned this area being part of the TIF district. The Lamperts are keeping their hand in this project until the end.

Ms. Corson suggested having smaller apartments for people who would like to live in the downtown area such as younger professionals would be attracted to this site. She, being a realtor, expressed that right now, if there was a house for sale downtown, it would sell; like the Squamscott building- commercial on the bottom and residential on top. Pete Cameron announced when he lived in Bedford, he expressed that this was a viable plan that worked well and has seen other projects developed by **TFMoran**.

Chairman Ken Knowles added that it is a perfect opportunity to implement Form Base Code concepts, suggests the parking in the back.

Chairman Ken Knowles opened the conversation up to the public. John Merkle- from the Form Base Code Committee explained their attempt to create transition zones. Ms. Corson is also on the Form Base Code Committee, and also said the committee is considering hiring a consultant to help craft such zoning. John Merkle, also on the River Study Committee, expressed there's a possibility the river will go away, a reduced flow and that more growth would be on the banks

This concluded the presentation; the board was looking forward to the applicant submitting a formal application.

OTHER BUSINESS

“LINDEN COMMONS” SUBDIVISION – PB CASE #2711

Chairman Knowles indicated that Board members had attended a site walk last Thursday evening, June 13th, 2013, to observe the on-site conditions of the development and the developer's representatives were requested to return this evening to update the Board on those issues discussed during the visit. He noted there were specific issues related to Lot #19 that were requested be addressed as well as an update on the other lots where it appeared improvements were not in compliance with the plans.

Mr. Paul Kerrigan, of Chinburg Builders, was present on behalf of the developer to address the Board. He acknowledged that Mr. Brad Jones, P.E. of Jones & Beach Engineers was also present in the audience. Mr. Kerrigan began by describing the changes already made with respect to the infiltration on Lot #19. He stated that Mr. Jones had provided a detailed the drainage plan depicting the proposed changes to the lot. Mr. Kerrigan noted that removal of several trees (identified along the rear of the property on Lot #19) was discussed and the proposed construction of a berm at elevation 46 to divert any run-off to the yard drain located adjacent to the existing driveway.

Mr. Kerrigan indicated that the proposed tree cutting on Lots #20, #21 and #22 would commence according to the plan and a berm would subsequently be constructed to the rear of those lots, to shed the water toward the street. He noted that the three lots were currently being used as a staging area but would be cleaned up and tree cutting would begin within the next two to three weeks.

Chairman Knowles commented that Mr. Kerrigan needed to create a drainage easement for the benefit of lots 19 & 20, and has more work to do as far as the legalities with the plan. Mr. Ferraro explains the elevations at the upper left corner isn't draining and hasn't caught the water at the right level. He shows that the water isn't being caught and will drain at elevation 44. Brad Jones, from Jones & Beach said the swale is 6' deep x 6'. Any water in the left corner, a wooded corner of the lot will not drain between the lot-line and isn't consistent with the plan. The footnote says all the property will be drained towards the road.

Mr. Knowles said he read the plan and that a blanket note (related to grading) was put on the plans, with a condition. However, the plan and permit don't meet the note, it doesn't conform from the original design and it cannot be built. Mr. Ferraro stated until a modification request is presented they need to come back to the board. Mr. Knowles explained the note was improperly worded, incorrect from day one. It should've been changed. The note does not talk about the intent; but what needs to happen.

Ms. Von Aulock expressed possibly tabling this case. She agreed with Mr. Ferraro and Mr. Knowles that this was not the intent of the board. There is a conflicting intent, part of the intent was to keep as much wooded area as possible, according to the drainage note, it would need to be cleared, re-graded, raised up and that is not what anybody wants.

Mr. Ferraro expressed the intent was for the drainage to flow away from the properties. He asked how the note was put on the plan, and this is the least of the problems. He asked how these were built and do not comply with the provisions. Mr. Knowles noted that there was an infiltration trench on the back corner of the driveway.

He asked Mr. Kerrigan where it came from, it was talked about on site. Mr. Knowles asked who proposed it, and who approved it? He asked if the developing engineer looked into who came up with it. Mr. Kerrigan said he didn't look into it as he didn't know about there was a problem, but thought the intent was to catch the water. He showed the slab grade was a bit higher and the intent was to have the water drain off the driveway. He doesn't know where it came from. Mr. Kerrigan stated that the site contractor that started this project is not the site contractor now- Brian Neil. Brian Neil is picking up a couple of the sites they are completing right now. He is aware of the grading, has sets of plans and is working on the drainage detail provided by Jones & Beach on the few he is working on. Mr. Kerrigan said he could research how it came to be. He just doesn't know.

Mr. Knowles expressed it's not a bad solution but it just wasn't built properly, no water will get into it because it has been loamed and seeded over and whatever comes off the driveway will just go into the grass and not into the infiltration trench and into the drywell. Chairman Knowles said to look at the staff, as to who made the decision in the field. Mr. Jones confirmed this design didn't come from his office. If this design didn't come from the builder or the registered civil engineer didn't design it, where did it come from? Ms. von Aulock expressed she didn't know and that after Brian's letter, they were trying to come up with a practical method. Mr. Knowles would like to find out. Ms. Von Aulock asked Mr. Kerrigan to come up with whom might have come up with this design, as he represents Chinburg builders. Mr. Kerrigan continued on showing the berm, they would need to cut back another 20 feet. The backside of the berm has a 3:1 slope. He stated the water was being caught, and he believed that was the intent.

Mr. Knowles expressed the amount of work and planning on this project goes against the intent of the "Open Space Development" conceptually. Modification of the "Conditional Approval" for the remaining lots needs to be built so they function properly. The board also agreed, that clear cutting more, goes against what the board had asked for, and to have the largest buffer as possible and to keep the trees on the site as it was close to the nearest abutters, and there was a huge discussion to keep the trees. Ms. Von Aulock suggested the note was wrongly written somehow.

Mr. Jones stated the note said the water would be directed to the front and this plan shows the lot water is directed to the front of the lot. Mr. Kerrigan referred to Mr. Ferraro's point about inconsistencies on the plan, based on the plan he recalled the topography does fall off on the back corner. He stated in order to fix; they would need to clear cut the whole thing. Ms. Von Aulock said that's not what the board wanted.

Chairman Knowles stated the note and plan are in conflict. He expressed that Lots numbers 4-25 shall be graded to direct water toward the road. Physically it cannot be done due to the grading that has been done. Technically and legally, a modification is needed, so that it is clear.

Mr. Kerrigan said they were willing to work with the town to make modifications to the other existing lots, then he expressed they were in a pickle because of a closing looming on the said property. The builders were hoping to resolve the current drainage issue by redirecting around the building, and hoping to get the board's blessing that evening and asked if this was a possible scenario. Ms. English referred to the corner conditions as being an existing issue not the building site causing it. She asked for clarification.

Mr. Knowles explained that the problem arise, the notes put on the plan did not say building site, it did not say cleared site, it did not say disturbed site or impervious services. The plans stated- lot 4 thru lot 25, property line to property line to property line to front road. Mr. Knowles stated that it cannot be done. Technically they need to come back for modification to properly word that note. Mr. Ferraro said they could not tell them to go ahead. A request for modification application must be submitted, notifying the abutters and a public hearing needs to happen.

The way that it is shown, the swale on lot 19 is correct, but the problem on the original and the current plan still does not meet the requirement of the note. There is a 42 elevation at the back and 46 up front yard. Mr. Knowles said it was physically impossible unless they pumped the water uphill, it cannot be done. Mr. Ferraro expressed when it was the original lot; it could've worked with a retaining wall and built up.

Ms. von Aulock stated that there are conflicting intents and reminded Mr. Ferraro of the note to ensure that the buffer and as many trees remain on site. Ms. Von Aulock said at this time they don't have a complete picture. Mr. Knowles said at the site walk, a request was made to see a full master sheet, to see where things started to go awry at Squire Way; drainage, wasn't even attempted.

Open space sub-development is to preserve open space, not meant to build an 8 ft wall on the property line. Ken expressed that a blanket note on a plan and what the intent might be. The board would like to see an application for modification that condition and physically work the lots to be developed.

Mr. Neil asked if the elevation were brought back up to 47 and rear grading were done, would it be acceptable? Ms. von Aulock specified that they would have to clear the lot and would be going back into the buffer. Mr. Kerrigan announced there was an exception in the plan; a waiver, that they could clear

right to the line. The silk fence is back to where it should be; where the grading limits are. The note also specified working with the planners Ms. von Aulock expressed. She said at this time there were conditions from DES, the Planning Board, and there were a lot of notes, there isn't a complete picture.

Chairman Knowles stated that at the site walk a request was made to see a full master sheet that was plotted on, to see where things started to go awry at Squire Way, all the way around, some of those in the back, drainage wasn't attempted. Ken expressed the amount of work, hours of hearings and 3 years of reviewing and planning.

They agreed the conflict needs to be resolved. Mr. Ferraro questioned how the lots were able to be built like that; he also acknowledged there is an inspector to make sure things was being kept in compliance. He would like more information about that.

Open up to public:

Brian Griset of 26 Cullen Way- recalls from the site walk that he would be seeing a global solution at least for lots 18, 19, 20, 21, 22 and he doesn't see this. He explained he was involved plan and permitting process, actively involved, state & local, permitting level, the original drainage data using FEMA where there were requirements for additional modeling and from his perspective, there were no errors. The errors he is discussing, a three year plan, designed, reviewed designed and planned over three years, there were restrictions put on the plan with the drainage issues. He disagreed that "drive under homes" shouldn't have been allowed; he said the wrong choice of home was chosen. He stated if a standard home such as a cape were built there, there is a lot of sand with basements and that the water could've drained into; but this wasn't the case.

- Lot 19 shows the elevations at lowest point is 45.01, putting in an 8" curb elevation 46
 - Spot Elevations on the plan and discussed during the hearings
 - Originally designed- 1 foot pitch-designer 46-47- it's on the plan
 - C-6 grading plan shows (*referencing the map*) not supposed to be a berm and extend into lot 18- elevation 47 and into elevation 47
 - Open Space, designed to maximize contiguous trees and wetland habitat
 - This grading plan shows the tree line came across the rear boundary and at the 47 ft elevation was at the edge of the property line, a 3:1 slope to put in to minimize the further addition of clearing; the technically able to drain to the roads.
 - The type of house chosen has now produced and island in the middle of the lots from #4 to the end of the development
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- At elevation 50, Mr. Griset suggested creating the drainage before selling, to deal with the issue
 - Nothing wrong with the original plan, approved by the board, no change or a conflict of intent
 - He referred to the comment made by - Ms. Von Aulock referred to keeping cutting to a minimum which is in the plan L-1, notation: landscaping plan, keeping cutting of trees to a minimum for landscaping purposes a note: When it comes to grading, civil engineering needs to go to the grading plans and landscaping doesn't overstep engineering approvals that have been approved by the board of the State of NH.
 - No attempt to go with the pitch, pointed out specifics to the other side of the map
 - Note: These lots on this side drainage was an issue as well wrong style house
 - For the record, there is no problem with the original plan, no conflict of intent on the original plan
 - Requesting the developer will go back and comply with the plan to make the changes, it is feasible and he has the state permits and approval from the board.
 - He would like to know specifically who allowed the lots not to be inspected.

Chairman Knowles asked if the board had any questions. There were none. The board would like to have a formal request to fully comply or a modification, so legally the public and abutters can be involved. He personally would like to see globally, how it ties together.

Frank Ferraro stated that if they intend to comply, no modifications need to be made. Mr. Knowles agreed. If they do modify the approved plan, then yes, they will have to apply for a modification application.

Mr. Kerrigan stated they would likely, simply, comply with the plan, more trees would need to be cleared. He asked for specifications on lots 5-10 as they do not own them anymore and residence live there.

Mr. Knowles would personally like to know where was the “disconnect” was. He expressed he didn't think there was anything the board could do as far as the residence's property goes. Mr. Kerrigan said he would investigate Chairman Knowles request.

Mr. Kerrigan expressed that the lots 1 & 2 do not have the same grading, but do have an infiltration system and the drainage. He didn't know why the other properties were overlooked in lot 9. He explained that super elevation was needed on the property for proper drainage. Chairman Knowles said it would be much easier to see a plan out of Auto-Cad, a global plan for the board and not individual lot plans. Mr. Kerrigan explained that yes, each individual lot needed its own building permit pulled for construction, but certainly he could do a global piece. Mr. Ferraro asked if there was any kind of sign off from anyone in the town. Mr. Neil expressed that approval was needed with a building permit.

Mr. Griset followed-up, the issue: the source regarding scenario of the driveway drywell, there was none at his first viewing. The planning department files were pulled for non-developed lots, with their specific conditions on those lots and notation specifications. Mr. Griset stated Mr. Highland's email and it read that he “had authorized this as is in compliance with the intent with the plan”, Brian Griset said he came into the Planning office the following Monday, Ms. Von Aulock was at the copier taking copies of the photos of the installation that had taken place, where a conversation began, he then explained that conversation between them, that Sylvia told him that she had approved the settlement and that she felt it complied with the intent. His reasoning for coming forward was that he didn't think Ms. von Aulock had the authority to determine intent and change conditions. His history: the information from Mr. Highlands' email, and Sylvia had told him that she agreed to this as the solution.

Ms. Von Aulock said that she and Mr. Griset have very different memories about what was said when he came in. Sylvia expressed that she and Building Code Enforcer Mr. Eastman had gone out to the site twice. She explained the history during this construction over the last year; the office was more concerned with home owners working into the wetland buffers, working with the developer getting a note out to the home owners so there wouldn't be more cutting into the wetland buffers. And so, the focus was on erosion control. Ms. von Aulock stated that when Brian's letter came in, it was then sent to Jeff Highland- the inspector, as they usually do to the site inspector to take a look at any issues. Sylvia stated she didn't approve the building of the drywell, but thought it would be a good compromise. She stated that there are two sides to a story, but that she clarified she doesn't approve individual site grading of a lot and it's the first she's heard of it. When something comes in, there are issues, the site inspector inspects and that's what is relied on. The planning office needs to look at all notes and to see if there are conflicts within the notes and the buffer stays whole and complete. She recalls the intent, that no drop of water drains the way it drains now. That was never the intent.

Chairman Knowles asked if there were any other questions for the board. There were none.

APPROVAL OF MINUTES: June 6, 2013

The minutes of June 6, 2013 were not available for review; action to approve was deferred until the Board's next meeting.

TOWN PLANNER ITEMS

None

REPORTS ON “OTHER COMMITTEE” ACTIVITY

The Dam Study Committee will be meeting at the Exeter High a report is now posted on the town's website.

CHAIRMAN'S ITEMS

Mr. Ferraro asked if this case would be tabled to the next meeting, Chairman Knowles said more information would be needed before continuing.

There being no further business before the Board, ***Ms. Bergeron moved to adjourn; second by Ms. Corson. VOTE: Unanimous. The meeting was adjourned at 9:10 P.M.***

The next meeting of the Exeter Planning Board will be held Thursday, July 11, 2013 at 7:00 PM in the Novak Room at the Exeter Town Offices.

Respectfully submitted,

Leigh A Burley
Administrative Assistant
Planning & Building Department

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