

*These minutes are subject to possible corrections/revisions at a subsequent Exeter Zoning Board of Adjustment meeting.*

**EXETER ZONING BOARD OF ADJUSTMENT  
APRIL 15, 2014 MEETING MINUTES**

**PRESENT:**

Regular Members: Chair Bob Prior, Vice Chair John Hauschildt, Martha Pennell & New Member Laura Davies  
Alternate Members: Marc Carbonneau  
Building Inspector/Code Enforcement Officer: Doug Eastman  
Deputy Code Enforcement Officer: Barbara McEvoy

The meeting was convened at 7:00 PM. Chairman Prior introduced the Board members and explained the protocol for the meeting.

**NEW BUSINESS:**

1. Case# 1468: 27 Chestnut Street, LLC

*Variance from Article 4.3 Schedule 2 density and dimensional regulations residential for the proposed construction of two apartment buildings with a maximum height exceeding the required maximum height requirement. Subject property is located at 27 Chestnut Street in the R5 Multifamily residential zoning district Tax Map Parcel #64-52*

*Ms. Davies disclosed that she has a personal connection to the developer that had in the past made an offer on this parcel but does not currently have business connected to it. Chairman Prior asked the board if anyone sees this as a conflict requiring Ms. Davies to recuse herself. No one on the board feels there is conflict which allows the alternate to leave.*

Ms. Sharon Somers, Esq, with Donahue, Tucker and Ciandella, PLLC addressed the Board representing the applicants of 27 Chestnut St., LLC was present to address the Board as well as Eric Chinburg & Matt Azia of 27 Chestnut St., LLC. Ms. Somers stated that Mr. Chinburg will do a brief overview of the project and then she will address the 5 variance criteria and then the opportunity will be given to the public for questions or comments.

Mr. Chinburg addressed the board indicating what they have done recently and why they are requesting this variance. Mr. Chinburg indicated that in order for them to build a 4 story building that looks esthetically pleasing it would need to be taller than 40 feet. Within the last week they met with several of the abutters to see the plans and receive feedback as well as make some commitments to them. Mr. Chinburg clarified that this request is an esthetic appeal that would require some additional height. Mr. Chinburg then turned the floor back over to Attorney Somers.

Ms. Somers indicated they have exhibits that she would like to introduce into the record including plans, computer generated depictions of what the property will look like after completion, also included is an aerial view showing locations of abutters, as well as a couple of photos taken of the properties on the Woodlawn Circle area.

Once these exhibits were presented Attorney Somers went over the variance criteria.

1. The first variance criteria being that the variance will not be contrary to the public interest. Ms. Somers stated that the allowed height is 40 feet, the proposed addition of a maximum of 20 feet but most likely

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will be less. The proposed height is consistent with the height of the existing multifamily across the street.

2. The second criteria, is the spirit and intent. Under the case law this criteria is judged by looking at the same evidence that has just been described and does not need repeating.
3. The third criteria, substantial justice. In these criteria the general rule is that any loss to the individual that is not outweighed by the gain by the general public is an injustice. In this case, there is no gain to the general public if this variance is denied. The public would be benefited as there will be a more attractive development resulting from the proposed height, rather than a 40 foot permitted height, which would most likely result in a flat roof which would not be that attractive for the abutters or the public to look at.
4. The fourth criteria, diminution in value. It is proposed that a maximum of 20 feet higher than what is allowed. This is illustrated in the computer generated photos showing what the building and the surrounding area will look like.
5. The first piece of the fifth criteria, hardship. This lot is very large, approximately 8 acres in size, one of two in the R5 zone, the other being the mill property across the street. As illustrated in the photo, it is ideally configured and as proposed that once this project is complete this area will be much more esthetically appealing than what is currently there.

The second piece of the hardship criteria is that there is no fair and substantial relationship between the general purpose of the ordinance and the application. The purpose of the ordinance is to prevent a disproportional amount of height and/or detrimental esthetic impact to the abutting properties. It is not believed that there is any such disproportional height with this building. Also, that the visual impacts are going to be more attractive than what the alternative would be which would be a shorter building with a flat roof. The flat roof would not only be unattractive, it would not be practical in the New England winters.

Chairman Prior asked for any questions or comments from the board.

Mr. Hauschildt stated that 20 feet is not an unreasonable amount to request however, where is the additional footage going to be used?

Ms. Somers turned this over to Mr. Chinburg to assist with clarifying these details.

Mr. Chinburg stated the building will have parking underneath which will go below ground. Each floor will consist of 11 feet per level which would be 44 feet plus a couple of feet for the foundation as well as the roof line which may bring the total height to 54-56 feet.

Mr. Hauschildt also asked about the setback as it appears the building will be close as well as the abutting properties are also close, has this been addressed with the neighbors? Mr. Chinburg stated that this was discussed with the abutting neighbors. There is a mature row of trees, many that are green year round, as well as additional proposed landscaping, which would provide a natural buffer.

Mr. Hauschildt then asked about the abutters requesting access through the property for pedestrian traffic. Mr. Chinburg indicated they would work with The Planning and Building Dept. to create a recorded easement to provide a pedestrian walkway in the park like area which would link the street to the pathway around the park/pond area going out to Chestnut Street.

Chairman Prior asked about the connecting road to Bittersweet outlined on the plan. Mr. Chinburg explained that is a requirement of the fire department that would provide a secondary emergency access into the site.

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Ms. Pennell asked how tall the mill buildings across the street are as well as the height of the new construction at the end of the street. Mr. Chinburg stated that one was approximately 61 feet, one was close to 70 feet and the one on the end was approximately 70 plus feet. He also stated that the new buildings would provide a transition from the tall mill buildings, the new apartment buildings then to the residential single family homes. Chairman Prior indicated that the grade of the mill buildings however, is significantly lower by approx. 10-15 feet than the location of the new buildings. Mr. Chinburg agreed.

Chairman Prior asked are you asking for the full 20 feet. Mr. Chinburg and Ms. Somers both indicated they would be asking for the maximum of 60 feet even though the building plans have not been designed yet however the plans would not exceed the 60 feet requested.

Ms. Pennell commented that if only one large building were to be constructed, could parking still be provided under the building. Mr. Chinburg responded that in either scenario, all of the required parking could not be accommodated under the building. He stated that with the two buildings, as presented, they were able to achieve a good fraction of the parking below the buildings with the remainder being provided outside.

Chairman Prior stated that during Ms. Somers presentation that it was mentioned that there would not be significant parking in the front of the buildings; however, the plans indicate a substantial amount of parking resulting in a large amount of impervious surface. Mr. Chinburg indicated that currently the entire area around the existing building consists of impervious surface; however, with the new construction of the parking under the buildings it would be substantially reduced and the green area would replace the impervious areas to be removed.

Ms. Davies asked they had any idea what the height and width of the previous building structure was in regards to the distance from rear lot line? Mr. Chinburg stated it was not as tall as what is being proposed and that the previous building was much closer to the line than what is being proposed.

Chairman Prior asked if they are proposing to build on the existing grade. Mr. Chinburg stated there is no intent to increase the grade to the land with this new structure.

Ms. Pennell asked if the residents from the mill apartment building across the street (10 Chestnut Street) will still have access to park in this area. Mr. Chinburg responded affirmatively, and indicated that those numbers (of spaces) had been built into their parking analysis. He stated that the shared parking agreement was approved as a condition of the original Exeter Mill project.

There being no further questions from the Board, Chairman Prior opened questions/comments up to the public.

Several of the neighbors and abutters addressed the board with many of the same issues and concerns regarding the height of these buildings. In attendance were: Ed Hogan, (30 Jady Hill), Len Metlock, (Haven Lane), Steve Robinson, (33 Jady Hill Ave.), Jim Griswold, (Woodlawn Circle), Susan Sumner, (28 Jady Hill Ave.), Rebecca Damsell, (6 Bittersweet Lane), Gabrielle Leiberwook & Walter Wingate, (32 Jady Hill), Michael Feld, (23 Woodlawn Circle), Bill Simmons, (Haven Lane).

Chairman Prior asked if there were any additional members of the public that would like to address the board, as there were none the floor was turned back to the applicant.

Ms. Somers addressed the board, regarding the questions, issues and concerns heard from the public regarding the height of these proposed two buildings. The main concern being heard was the landscaping and screening of the buildings for the abutters. The solution appears to be landscaping and the question is then what amount of

landscaping, what is the type of screening. One of the discussions that they had at the neighbors meeting was a commitment to provide mature landscaping along with fencing to meet the objective.

Chairman Prior turned the floor back to the board for further questions.

Ms. Davies had questions about what is envisioned regarding fencing and screening to be used as well as the esthetics in the rain gardens etc. Mr. Chinburg stated there are many different options with regard to the different types of trees and landscaping that could be used. They would be open to working with the neighbors along with their landscape architect even if it meant doing plantings on their property, with their permission, to help with this screening issue. The fencing would be done along the back line of the property. Currently there is an old chain link fence that could be replaced or possibly be removed altogether. Again, they are very open to working with the neighbors on a one on one basis as needed.

Mr. Carbonneau stated that currently the way the two buildings are situated on the plans, would it be possible to move the building away from the line even though there is a small percentage of wet land? Mr. Chinburg indicated that would certainly be a possibility to consider although it may only provide an additional 5 or 6 feet buffer but every bit might help.

Mr. Hauschildt wanted to clarify a couple of issues that were brought up, one being the roof tops and the other being the screening issues for the abutters. Mr. Chinburg indicated that they would work with The Planning and Building Dept. to ensure the abutters/neighbors are satisfied with the screening/landscaping that is proposed. Ms. Somers also stated that once the plan does go before The Planning and Building department the landscaping and screening 'conditions of approval' can be added to the plans to ensure that these terms are enforced. Mr. Chinburg also stated that these issues and concerns were brought up at the neighbors meeting as well and at that time a commitment was made to them that this would be done.

Mr. Carbonneau asked why this configuration was decided on rather than more buildings with less number of units that were lower in height? Mr. Chinburg stated that there were a few several different reasons ranging from an economic reality as well as the desire to have a greener site.

Chairman Prior asked if there were any further questions for the applicant as there none he closed the public portion of the session and moved into deliberations.

#### DELIBERATIONS

The board reviewed the presentation and agreed they was very well done and liked the idea of removing large amounts of pavement to be replaced with landscaping. The board also reviewed the concerns brought forth by the abutters/neighbors and agreed that the developer did a good job by committing to provide adequate landscaping as well as screening to mitigate the view for the abutters. The board then reviewed the variance criteria and agreed all were met.

**MOTION:**     ***Mr. Hauschildt moved to approve the variance request subject the following conditions:***

- ***The maximum building height shall not exceed sixty-feet (60');***
- ***The two (2) four-story buildings must be constructed with a pitched roof; and***
- ***The Town Planner shall review and approve adequate screening/landscaping, particularly along the southern side of the property (abutting Woodlawn Circle neighborhood).***

**VOTE:**       ***The motion passed unanimously.***

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APPROVAL OF MINUTES: September 15, October, 15 and December, 17, 2013

**MOTION:** *Mr. Hauschildt moved to approve ALL minutes as presented.*

*Ms. Pennell seconded ALL as presented.*

**VOTE:** *The motion passed unanimously.*

OTHER BUSINESS:

Mr. Hauschildt reviewed the following zoning amendments that were adopted by Town Meeting vote in March.

1. Article 4: District Regulations – Schedule I Notes:  
Conversions revise (b) as follows:  
(b) The minimum lot size required shall be such that each dwelling unit is provided with thirty percent (30%) of the minimum lot size (per unit) required for the district.
2. Article 5.6.3 Off Street Parking:  
Size and Access: Each off-street parking space shall be rectangular, nine feet by nineteen feet exclusive of access drives or aisles, and shall be of usable shape and condition. **The Planning Board may grant a reduction in the size of the space if circumstances on the site, such as perimeter parking which allows overhang, can be provided.**
3. Article 5.6.4 Shared Parking:  
Shared parking is parking on a single site utilized by two or more uses in a 24 hour period. It is an allowance to fulfill their individual parking requirements as their prime operational hours may not overlap and their parking demands may vary from specified standards due to the scale of the project. Shared parking recognizes complimentary parking characteristics that may be unique for each case and for the specific users of the site.
4. Article 5.6.5 The Planning Board may grant reductions in the number **and size** of required off-street parking spaces in conjunction with its site plan review.

Ms. Pennell requested to discuss the Board's membership for the upcoming year. It was noted that current members included: Regular Members: Robert Prior (Chair), John Hauschildt (Vice-Chair), Rick Theilbar (Clerk), and Laura Davis, Alternate Members: Martha Pennell, Hank Ouimet and Marc Carbonneau. It was noted there was one (1) regular and two alternate member positions currently vacant.

Ms. Pennell brought up the All Boards Meeting regarding the issues of the lack of parking downtown. Chairman Prior stated that this is an ongoing issue and urged the board members to attend the All Boards Meeting to discuss this matter further.

**MOTION:** *Mr. Hauschildt moved to adjourn.*

*Ms. Pennell seconded.*

**VOTE:** *The motion passed unanimously.*

The meeting was adjourned at 9:00 P.M.

Respectfully submitted,  
Transcribed by Deanna Morrison (for Barbara McEvoy)