

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

## **EXETER ZONING BOARD OF ADJUSTMENT JUNE 17, 2014 MEETING MINUTES**

### PRESENT:

Regular Members: Chair Bob Prior, Vice Chair John Hauschildt, Clerk Rick Thielbar, Laura Davies and Kevin Baum.

Alternate Members: Martha Pennell

Deputy Code Enforcement Officer: Barbara McEvoy

The meeting was convened at 7:00 PM. Chair Prior introduced the Board members and welcomed Mr. Kevin Baum to the Board noting that he was recently appointed as a regular member. He explained the protocol for the meeting; he indicated that he would be recusing himself from the first application as his wife works for the YMCA; and that Mr. Baum would be recusing himself from the second application as he is employed by the law firm representing the Applicant. Chair Prior noted that Ms. Pennell would be voting on both of the applications.

### AGENDA:

1. Case #1470: Southern District YMCA, 56 Linden Street  
Special Exception request for Use in the R-2 zoning district
2. Case #1471: Porches of Exeter, LLC (Kathleen Mahoney), 1 Franklin Street  
Variance(s) for Use in the R-2 zoning district and Parking Relief

*At this time, Chair Prior excused himself and was seated in the audience; Vice Chairman Hauschildt proceeded to chair the meeting.*

### NEW BUSINESS:

#### **1. Case #1470: Southern District YMCA**

***The application of Southern District YMCA for a special exception per Article 4, Section 4.2, Schedule I: Permitted Uses and Article 5, Section 5.2 to permit the proposed construction of a community building to house a "YMCA". The subject property is located at 56 Linden Street, in the R-2, Single Family Residential zoning district. Tax Map Parcel #82-13. Case #1470.***

Attorney Sharon Somers, of Donahue, Tucker & Ciandella, PLLC addressed the Board on behalf of the Applicant. She acknowledged that YMCA Executive Director Rob MacGregor and Mr. Jeff Clifford, P.E. with Altus Engineering, Inc. were also present. She began the presentation by giving a brief history of the project noting that the original special exception approval for the redevelopment of the site was obtained by Squamscott Community Commons in September 2007 (ZBA Case#1336). She indicated that at that time the proposal was for the proposed construction of a community building to house the YMCA as well as several local non-profit organizations. She stated that the approval had been extended for an additional three years, and had since expired. She explained that since the original approval was granted, plans for the proposal had been scaled back and the proposal was now solely for use of the property to house a YMCA. Attorney Somers added that her client had obtained a conditional approval from the Planning Board in September 2012, and subsequently obtained a one-year extension making the approval valid through September 2014. She commented that her client was hoping to begin Phase 1 construction this year with a 10-month timeframe for completion.

Mr. Jeff Clifford, P.E. addressed the Board and reviewed the key differences between the two proposals. He reiterated that the current proposal was solely for the use of the property by the YMCA and construction was being proposed in phases. It was represented that Phase I construction would include the main building (including the gymnasium, wellness center, locker rooms, youth & teen space) and parking and the second phase would be the construction of the pool. Mr. Clifford indicated that adequate parking would be provided for the site; he noted that a total of 352 parking spaces were being provided. He explained that the shared parking with the abutting SAU property was still being proposed and would account for 192 of those parking spaces. Mr. Clifford indicated that the corner of the building closest to the residential abutters was being held at the same location, although a smaller overall footprint was being proposed.

Attorney Somers briefly addressed the special exception criteria as outlined in the application and noted that criteria D. relative to adequate landscaping and screening had been reviewed and approved as part of the site plan review process. She indicated that her client had met the criteria for granting of the special exception and was requesting approval from the Board. She also noted that they would be presenting an update of the project to the Planning Board next week.

Mr. Baum asked if there was any change to the landscaping plans with the down-sized proposal. Mr. Clifford responded that the landscaping would remain the same for the most part, however, a larger rain garden was being proposed and the existing athletic field would be preserved. Mr. Baum also inquired if the traffic was reviewed as part of the Planning Board approval. Mr. Clifford indicated that there would be even less impact given the proposal is much more minimal in scope. Attorney Somers noted that the traffic analysis had also been updated and would be provided to the Planning Board.

Ms. Davies inquired if there were any changes in the proposed uses within the building. Mr. Rob MacGregor, Executive Director of the YMCA, addressed the Board and explained that the YMCA was only one component of the original 2007 approval. He stated that the proposal being considered at this time is solely for use of the property (and proposed structure) by the YMCA. He reiterated that the proposed development would be a phased project as Mr. Clifford described earlier.

Mr. Hauschildt inquired about the terms of shared parking agreement with the Seacoast School of Technology (SST) and whether it was specific to the YMCA use or if it would run with the property. He also asked if the document would be recorded. Mr. MacGregor responded that reference to the agreement would be included in the property deeds (by addendum).

Mr. Clifford noted that the YMCA anticipated being able to meet the conditions of the Planning Board approval by September 2014 and subsequently have the site plans signed; a two-year window for construction would follow.

There being no further questions from the Board, Vice Chairman Hauschildt opened the hearing for public comment.

Ms. Joy Tinker, 46 Linden Street, identified the location of her property and indicated that she had several questions. She inquired as to when blasting would begin for the project. She also asked if it was anticipated that the driveway would be widened to accommodate the busses and increased traffic and if any changes were proposed to the parking lot area adjacent to the rear of her property.

Ms. Margaret Callahan, Principal of the Seacoast School of Technology (SST) addressed the Board and indicated that she was present on behalf of the Exeter Region Cooperative School District. She stated that

her understanding from the inception of the project in 2005 was that the YMCA would not have access to the driveway adjacent to the SST building or to any of the driveways on that side of the Tuck Campus building because it would not be safe. She noted that the driveway adjacent to the SST was a one-way exit to Linden Street.

Mr. Walter Payne, 1 Pine Street, expressed concern about the existing traffic congestion and potential of increased impact to the intersection of Front/Pine and Linden Streets.

Mr. Marc Carbonneau, 211 Front Street, commented that he was an alternate member of the Zoning Board and had sat on the original 2007 case. He acknowledged that the size and scope of the proposal had been reduced considerably, and stated that the Board at that time had considered the proposal to be sensible redevelopment of a community building.

In rebuttal, Mr. Clifford reviewed the Planning Board approval time-frame. He stated that at this time they did not anticipate any blasting would be necessary, however, one of the conditions of the Planning Board approval was that 'pre and post' blasting inspections of the three (3) abutting residential uses would be required. He noted that such inspections would be conducted most likely in the fall (2014) if it was determined that blasting would be necessary. Ms. Davies asked if the public building (Tuck Learning Campus and SST) was also included; Mr. Clifford responded that he did not believe so.

With respect to the earlier comments made by Ms. Callahan, Ms. Pennell inquired about the use of the driveway access adjacent to the SST. She pointed out that the note on the site plan indicated "busses only". Mr. Clifford indicated that he would follow up and clarify the Planning Board discussions and approvals with respect to this issue.

Attorney Somers stated that she had reviewed the Planning Board approval with respect to the pre/post blasting agreement. She also indicated that the 2007 ZBA approval had included the condition that the Planning Board pays special attention to details for landscaping/screening and lighting during the site review process. She acknowledged that these items had been thoroughly reviewed by the Planning Board.

There being no further discussion, Vice Chairman Hauschildt closed the public hearing and the Board moved into deliberations.

#### DELIBERATIONS

Mr. Thielbar commented that basically the Applicant was looking to extend the approval even though it had expired. It was represented that there had been a reduction in the scope of the proposal, along with some minor changes, however, the special exception being sought was to permit a community building (use) within the R-2, Single Family Residential zoning district.

Ms. Pennell requested that clarification of the use of the driveway access (adjacent to the SST building) be reviewed at the upcoming Planning Board meeting.

Mr. Thielbar led the Board through discussion of the special exception criteria.

**MOTION:** *Ms. Pennell moved to approve the special exception request, as presented.*

*Ms. Davies seconded.*

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

At this time, Chair Prior was reseated with the Board and resumed the Chair; Mr. Baum recused himself; and Ms. Pennell remained a voting member.

**2. Case #1471: Porches of Exeter, LLC (Kathleen Mahoney)**

*The application of Porches of Exeter, LLC for a variance from Article 4, Section 4.2, Schedule I: Permitted Uses to allow a social club to be located partially within the R-2, Single Family Residential zoning district; and a variance from Article 5, Section 5.6.6 seeking relief from the minimum parking requirements for a proposed multi-use building. The subject properties are located at 1, 9 and 19 Franklin Street, in the C-1, Central Area Commercial and R-2, Single Family Residential zoning districts. Tax Map Parcels #72-70, #72-72 and #72-122. Case #1471.*

Attorney Tim Phoenix, of Hoefle, Phoenix, Gormley & Roberts, P.A. addressed the Board on behalf of the Applicant. He acknowledged that Ms. Kathleen Mahoney (Applicant/potential purchaser) and Mr. Allen Lampert (property owner) were also present. He proceeded to explain his client's proposal to develop a "pocket neighborhood" of cottage townhomes together with a central clubhouse for residents of the cottages and others. He indicated that the current property owner, Allen Lampert, had obtained zoning and Planning Board approvals for the proposed residential townhouses on the adjacent properties; he stated his client was seeking relief from the 'use' and parking regulations to permit the proposed construction of a multi-use building in conjunction with the townhouse development. He noted that the proposed 'social' club would occupy the first floor and provide primarily dining and fitness areas to be used privately by a targeted 100-members. He indicated that four (4) residential units were proposed for the second floor.

With respect to the parking relief being sought, Attorney Phoenix represented that thirty-eight (38) spaces would be required for the proposed multi-use building and that twenty-nine (29) spaces were being provided. He reviewed the parking calculations, as follows:

- 75-seat restaurant/dining/bar area = 25 spaces. He noted that a 15% discount had been applied to the number of spaces required whereas the residents of the townhouses already had parking spaces at their homes and would walk to the club. Therefore, the calculation was based on the number of non-resident members and yielded 21 spaces.
- Recreational space (club and fitness rooms) – 1,926 s.f. in area = 6 spaces
- Guest parking required for townhouses at 20 Franklin Street = 2 spaces
- Proposed 4 residential units on second floor (inc. guest parking) = 9 spaces

Attorney Phoenix stated that he was not aware of the current deeded right of parking between Mr. Lampert and the Long Block Condominium Association for the use of eleven (11) parking spaces on this property until just his evening. He indicated that his understanding was that Long Block had the right to use 11 'designated' parking spaces on the property from 7:00 AM to 7:00 PM on weekdays. He represented that these spaces would be considered as 'shared' and he noted that the majority of the Applicant's use of social club would be during the evening hours. He commented that from his personal experience when dining in Exeter in the evening, there was no parking issue. Attorney Phoenix stated that his client was seeking relief for nine (9) spaces and noted that similar relief had been granted by the Board for The Green Bean, Blue Moon and for the Gardner House proposal. He quoted from Exeter's Master plan about encouraging more practical use of stores and occupancy of buildings all while not exacerbating vehicular congestion/parking concerns.

Attorney Phoenix pointed out that the previous building on this site had encompassed the entire parcel. He stated that his client's proposal would provide green space around the building and open up the entire corner, and was a less intensive use of the site than the proposal that was to be presented by Mr. Lampert.

Chair Prior asked for several points to be clarified. He recalled the approvals granted to Mr. Lampert in September 2013 for the Franklin Street properties and asked if all the townhouse units were included in this proposal. Mr. Lampert responded affirmatively, and also noted that the Planning Board approvals for those properties had also been obtained. Chair Prior noted that the variance request for relief from the guest parking requirement for the Townhouse project at 20 Franklin Street had been denied back in September. He asked if these parking spaces were now being provided on the subject property; Mr. Lampert confirmed that was correct and that reference to such parking would be included in the deed description as well as on the site plan. He noted that these spaces were in addition to the eleven (11) spaces dedicated to use by Long Block Condominium Association.

Chair Prior asked the Applicant to address the basis for the proposed 15% reduction in the parking calculations being presented. Attorney Phoenix stated that the reduction was proposed taking into account that use of the club by the residents (of the townhouses) would not require any on-site parking. Chair Prior indicated that there was no zoning basis for the proposed reduction and indicated that all the seats could be occupied by other members (and not residents). Attorney Phoenix acknowledged Chair Prior's statement and indicated that a total of forty-two (42) spaces would then be required for the site.

Chair Prior commented that the proposal being presented would undoubtedly alter the essential character of the neighborhood. He expressed his disappointment and indicated that he would not envision a residential/commercial parking lot as an attractive 'gateway' to the town. He recalled the discussions that Mr. Lampert had previously with the Historic District and Heritage Commissions with respect to appearance of the property.

Attorney Phoenix responded that the proposed 'clubhouse' fit better tucked back into the site as it provided a more private setting and noted that it opened up the corner for view and landscaping. He stated that this should not be considered the sole basis for altering the character of the neighborhood.

Ms. Kathleen Mahoney addressed the Board and provided some additional comments. She agreed that the proposal would alter the character of the neighborhood to some degree; however, the question of whether it would be positive or negative was subjective and would need to be considered. She shared that in her discussions with Ms. Kathy Gallant, owner of the Blue Moon that Ms. Gallant had indicated opening up the corner was visually pleasing and provided her with a great view of the Long Block. Ms. Mahoney added that it would also provide an enhanced view of the town coming down High Street

Mr. Hauschildt inquired about the proposed hours of operation. Ms. Mahoney replied that she was anticipating the clubhouse would be open from 8:00 AM to 10:00 PM, with light use of the facility during the morning/afternoon hours and an increase in the evening as only dinner will be being served. Mr. Hauschildt asked if there would be an issue with restricting the dining hours. Ms. Mahoney indicated that she would rather not as she may wish to consider 'lunch' in the future and would not want this as a limiting factor.

Discussion ensued relative to the parking calculations as presented by Ms. Mahoney. Mr. Hauschildt noted that there was no mention of the dedicated spaces for the Long Block Condominium Association included in the calculations. He also indicated that the 'recreation' area calculation was incorrect and should be seven (7) spaces required based on the square foot area presented. He indicated that between 43 and 54 spaces would be required based on the Board's consideration of how to address the deeded spaces for Long Block Condominiums. Mr. Hauschildt asked if the Applicant intended to serve dinner every evening; Ms. Mahoney responded that dinner would be served six (6) nights a week and it would be one 'fixed' meal for the evening.



Making reference to Attorney Phoenix's previous comment about similar relief being granted by the Board to the Green Bean and Blue Moon, Chair Prior explained that the relief granted to each of these Applicants was not the total relief they had sought, however, allowances were made by negotiating a decrease in the number of seats being permitted and/or restricting the number of seats able to be occupied at any one time. Attorney Phoenix stated that his client was willing to accept a restriction on the number of seats that could be occupied at any one time (similar to the Green Bean approval) and noted that the municipal lot would be available.

Ms. Davies inquired whether Ms. Mahoney would be holding functions at the proposed club. Ms. Mahoney responded that she had no intent of hosting any private functions; she reiterated that the club would not be open to the public. Ms. Davies inquired about the potential of offering extended dining (breakfast/lunch) on weekends when more off-street parking was available.

Chair Prior asked if any other relief (i.e. dimensional) was being sought or would be required. Attorney Phoenix indicated that currently what is proposed will meet the dimensional requirements.

Ms. Pennell asked if liquor would be served at the proposed club. Ms. Mahoney indicated that liquor would be permitted, it would either be served or BYOB. Ms. Pennell questioned how the membership was based (per/person, per/unit ??). Ms. Mahoney responded that it would be per/unit. Attorney Phoenix commented that it would be similar to the Gardner House proposal. Mr. Hauschildt noted that the difference between the two social club proposals was that the Gardner House dining (restaurant use) was open to the public, therefore, a benefit to the public and justifying the use of the municipal parking lot.

Ms. Davies asked what type of screening would be proposed along the southern property line (abutting adjacent residential uses). Ms. Mahoney assured the Board it would be adequately screened and was envisioning a high-thick hedge of some sort. She also mentioned that there may be occasional outdoor entertainment in the garden.

Mr. Hauschildt asked for clarification of which areas would be considered 'recreational' space for the purpose of calculating parking. He also inquired if the fifteen (15) townhouse units would receive an automatic membership with the sale of each unit. Ms. Mahoney indicated that was correct; she also indicated it would be necessary to have one-hundred (100) members to make the proposed project economically viable. Mr. Hauschildt asked if the club membership proposal was not successful, would Ms. Mahoney consider abandoning it and move forward with a sole restaurant use. Ms. Mahoney replied that was not her intent, however, in ten or fifteen years, or possibly other owners, it could be possible; she really had no idea.

Mr. Thielbar inquired about the right-of-way (ROW) easement between the Blue Moon and the subject property; he suggested it may be possible to negotiate the use of it to gain some additional parking. It was represented that Mr. Lampert had the right to pass and re-pass but no parking was permitted in the easement area.

There being no further questions from the Board at this time, Chair Prior asked if there were any abutters or interested parties who wished to speak on the application. He opened the hearing for public comment.

Attorney Sharon Rondeau, owner of two (2) units at the Long Block Condominiums, addressed the Board and provided them with a copy of the current parking easement agreement between the Long Block Condominium Association and Mr. Lampert. She briefly explained the history of the parking issues that led to the 2005 easement (which she noted did not include the 1Franklin Street property). She noted that

in 2008, Mr. Gerald Carmen conveyed the property at 1 Franklin Street to Mr. Lampert (TowItAll, LLC). She commented that 1 Franklin Street had no right to share the parking outlined in the easement agreement. Mr. Hauschildt made reference to subsection (d) of the easement agreement and noted that the dedicated eleven (11) parking spaces could be used by AI's, however, not by others. Attorney Rondeau stated that the Association would be willing to work with the Applicant to come to an agreement regarding the relocation of their dedicated spaces.

Mr. John DalSanto, also an owner of units in the Long Block Condominiums, concurred that they would work with the Applicant to negotiate a satisfactory agreement for the continued use of the parking spaces. He expressed his appreciation of the Board's concern relative to the parking issue.

Mr. Steve Kaneb, representing Soaring Hawk, LLC, the new owner of the former Loaf & Ladle restaurant, distributed a letter to the Board outlining his concerns relative to the application. He requested that before the Board considered the relief being sought, the town should obtain a survey of current parking conditions in the downtown business district which would identify both 'supply and demand'. He commented that the 98-seat restaurant on his property (which is currently not open for business) and approvals for other uses in the downtown must be included. Mr. Kaneb expressed his concern that property values would be diminished if the variance were to be granted and that it would also be contrary to the public interest; he urged the Board to deny the request.

Selectmen Don Clement addressed the Board and inquired about the proposed 'club' being considered a commercial use. He indicated that it was a private club and questioned how granting the request would be a benefit to the general public.

Mr. Marc Carbonneau, 211 Front Street, spoke of the formula for determining the parking needs for a mixed use property. He noted that the information regarding the eleven (11) dedicated spaces had not been presented as part of the application and certainly needed to be taken into consideration prior to any decisions were made.

There being no further public testimony, Chair Prior closed the public portion of the meeting and offered the Applicant the opportunity for rebuttal.

Attorney Phoenix reiterated that 'community buildings, social halls, clubs, lodges and fraternal organizations' were permitted uses in the C-1, Central Area Commercial zoning district. He noted that although the Exeter Zoning Ordinance did not define 'social halls, clubs, etc.' he believed that his client had clearly represented her intentions and the anticipated functions of the proposed 'club'. With respect to Attorney Rondeau's comments relative to the parking easement, he indicated that his client was amenable to working with the Long Block Condominium owners to achieve a mutual agreement to maintain their eleven (11) dedicated parking spaces.

Chair Prior announced that the Board would take a short recess at this time (9:20 P.M.). He asked that the Applicant take this time to determine how they would like to proceed with the application. The Board reconvened at 9:30 P.M.

Attorney Phoenix approached the Board and indicated that he had spoken with his client and would respectfully request a continuation of the hearing. He mentioned that if possible, they would like to return in two weeks instead of waiting until the Board's next regular meeting. In considering the request, the Board reviewed the availability of board members and the upcoming July agenda. The Applicant was advised that additional materials would have to be submitted in a timely manner for board member review prior to the meeting. Attorney Phoenix acknowledged the Boards' direction.

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**MOTION:** *Mr. Hauschildt moved to continue discussion of the application at a meeting scheduled for Tuesday, July 1, 2014 (at 7:00 P.M.) to allow the Applicant adequate time to provide additional information for consideration.  
Ms. Pennell seconded.  
VOTE: The motion passed unanimously.*

**OTHER BUSINESS:**

**APPROVAL OF MINUTES:** June 3, 2014

**MOTION:** *Mr. Hauschildt moved to approve the minutes of June 3, 2014 as presented.  
Mr. Thielbar seconded.  
VOTE: The motion passed 4-0, Chair Prior abstained.*

**CHAIRMAN'S ITEMS:** None

**MOTION:** *Mr. Hauschildt moved to adjourn.  
Ms. Davies seconded.  
VOTE: The motion passed unanimously.*

The meeting was adjourned at 9:40 P.M.

The next meeting of the Exeter Zoning Board of Adjustment will be Tuesday, July 1, 2014 at 7:00 P.M. in the Nowak Room at the Exeter Town Offices.

Respectfully submitted,

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