

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

EXETER ZONING BOARD OF ADJUSTMENT JULY 1, 2014 MEETING MINUTES

PRESENT:

Regular Members: Chair Bob Prior, Vice Chair John Hauschildt, Clerk Rick Thielbar
Alternate Members: Marc Carbonneau and Hank Ouimet
Deputy Code Enforcement Officer: Barbara McEvoy

The meeting was convened at 7:00 PM. Chair Prior introduced the Board members and explained the protocol for the meeting. He indicated that the application being heard this evening was a continuation from the June 17th, 2014 meeting.

AGENDA:

1. Case #1471: Porches of Exeter, LLC (Kathleen Mahoney), 1 Franklin Street
Variance(s) for Use in the R-2 zoning district and Parking Relief

NEW BUSINESS:

1. 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 (potential purchaser) and Mr. Allen Lampert (property owner) were also present. He distributed a summary, dated 7/1/14, which the Applicant had prepared that outlined the revisions and clarifications that had been made subsequent to the June meeting. Attorney Phoenix reviewed the revised parking calculations; he noted that the reduction in the number of proposed residential units in the building and the area(s) to be utilized for 'recreational' space also decreased the number of parking spaces required. He indicated that two additional spaces had been picked up along the right-of-way (ROW) to the rear of the site. He also mentioned that two (2) driveways along Franklin Street would be removed as part of the proposed development which could yield two (2) more on-street parking spaces along with the other spaces around the immediate area of the property. Attorney Phoenix reiterated the previous approvals granted by the Board for parking relief in the downtown area.

Chair Prior indicated that the revised parking analysis did not reflect the two 'guest' parking spaces for the 20 Franklin Street project; he stated that they must be included in the parking calculations given the previous ZBA approval for that site. Mr. Ouimet asked if there was any other option for the location of the two (2) 'guest' spaces. Mr. Lampert confirmed that the common ownership of the property across the street was being utilized to provide the additional guest parking. Chair Prior stated that the two (2) parking spaces were required for the construction of the 5-unit townhouse to move forward. He noted that the total number of spaces required would now be increased to 37; he indicated that it had been represented that 31 were provided, therefore, relief for six (6) spaces was being considered.

Mr. Ouimet mentioned that the eleven (11) “Long Block” parking spaces were not included in the mathematics. Attorney Phoenix replied that the agreement between Mr. Lampert and Long Block Condominiums granted an easement for the use of eleven (11) parking spaces by the condo association (between 7:00 AM and 7:00 PM, M-F) and subject to use by Mr. Lampert (between 7:00 PM and 7:00 AM, M-F and on weekends). Mr. Ouimet commented that it appeared as though the Applicant was basically making an argument for shared parking.

Attorney Phoenix stated that in his absence, his associate Kevin Baum and Ms. Mahoney had spoken with representatives from the Long Block Condominium Association. He indicated that no final agreement had been reached as of yet, however, it had been represented that Long Block would be fine with the proposed relocation of the eleven (11) spaces plus one (1) overflow space (as agreement is currently written). Chair Prior inquired if the agreement was transferable to the purchaser of the subject property. Attorney Phoenix stated that typically the easement would run with the property.

Ms. Mahoney addressed the Board and confirmed their discussions with Mr. John DalSanto, representative of the Long Block Condominium Association. She commented that they were very close to resolving the parking concerns, and was hopeful that it would be within the next week. She indicated that they had agreed on all the main points and she was 100% confident that an agreement would be forthcoming.

At this time, Chair Prior opened the hearing for public comment.

Mr. Steve Kaneb, owner of the former Loaf and Ladle restaurant, expressed his appreciation of the progress made by the Applicant since the last meeting; however, he still questioned the justification for hardship. He indicated that the Town currently did not have a real inventory of the parking needs for the downtown. Mr. Kaneb noted that the restaurant on his property (which is currently not open for business) was grandfathered for 90 seats as was the vacant site at 19-23 Water Street, owned by Mr. Peter Olney. He indicated that the two restaurant uses yielded a total of 60 parking spaces that are already spoken for.

Attorney Phoenix responded that he understood Mr. Kaneb’s concerns; however, he reiterated that similar relief had been granted by the Board in the past under the same circumstances. He commented that the Gardner House proposal (12 Front Street) was not moving forward and theoretically granting approval of this request would replace that approval.

Mr. Hauschildt inquired about the possibility of adding a third floor to the proposed structure, therefore creating a smaller footprint and the ability to provide more parking on the site.

Mr. Lampert indicated that there had been a vast amount of discussion with respect to the height of the proposed building during the discussions with the Historic District Commission (HDC). He noted that the overall objective was to have the new construction blend in with the existing neighborhood. He indicated that there was currently a HDC approval in place; however, if any exterior design changes are proposed, it would most likely require returning to the Historic District Commission for additional review.

Mr. Hauschildt commented that the continuation of this application was provided to give the Applicant an opportunity to resolve the parking issue with the Long Block Condominium Association. He acknowledged that there was no one present this evening on behalf of the condominium association. Ms. Mahoney responded and reiterated that that she was 100% confident that resolution will come to be satisfactory to both parties.

There being no further discussion, Chair Prior closed the public comment portion of the hearing.

DELIBERATIONS

Chair Prior began the discussion by clarifying that the three applications being cited by the Applicant as having received previous approval from the Board for relief from the parking requirements were all providing restaurant/dining services for “public” use. He briefly reviewed those approvals and indicated that limited relief had been granted in each scenario. Chair Prior noted that in this circumstance, the application is for parking relief for a “private”/limited to “members only” use of the restaurant/dining facility being proposed. Mr. Hauschildt added that those three previous applications were also for existing structures (and/or businesses) which had already had some parking provided. He also indicated that while the proposed restaurant/dining use may be less intense because of it being private, there was no guarantee that it would remain private in the future.

Mr. Carbonneau commented that occasionally with urban in-fill projects on small lots, the land use regulations tend to start conflicting. He explained that proposals being reviewed by various land use boards can become subject to such conflict as each board and/or commission may have its own personal vision for the project. He noted that the Zoning Board is not always the developer’s first stop, so to speak, when it comes to the land use process.

Mr. Hauschildt commended the Applicant on the revisions to the proposal to accommodate less parking. He suggested that reducing the number of seats in the restaurant to sixty (60) to further reduce the amount of relief being sought could be an option. He stated that he shared the concern of the downtown business owners on the lower (eastern) end of Water Street.

Chair Prior commented that if the Board chooses to grant specific relief, the Applicant would then have to decide what changes need to be made to make the project feasible.

MOTION: *Mr. Hauschildt moved to grant the variance, as requested, to permit the proposed use (social club) to be partially located within the R-2, Single Family Residential zoning district, as presented*
Seconded by Mr. Thielbar.
VOTE: *The motion passed unanimously.*

The Board proceeded to deliberate on the second variance request for relief from the parking requirements.

Mr. Hauschildt commented that he would prefer that reduced relief could be granted as opposed to denying the application. He suggested that the number of seats permitted for the dining/restaurant use could be restricted. He indicated that a 60-seat restaurant would require twenty (20) parking spaces and would therefore reduce the overall relief being sought to one (1) parking space. Mr. Ouimet recommended that the public hearing be reopened to give the Applicant the opportunity to comment; Board members concurred. Chair Prior re-opened the public hearing.

Attorney Phoenix addressed the Board and represented that his client would agree to a “60-seat” restriction on the proposed dining/restaurant use for the property. There was no further discussion and Chair Prior closed the public hearing. The Board resumed their deliberations and addressed the variance criteria.

MOTION: *Mr. Hauschildt moved to grant the variance for parking relief, as presented, for the proposed mixed use to include a restaurant/dining use with a maximum of sixty (60) seats, recreational space (for fitness room, club room, etc.) on the first floor which*

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shall not exceed 1122 square feet, and three residential dwelling units on the second floor, subject to the following conditions:

- The three (3) subject properties under consideration as part of this proposal shall be merged and such documentation shall be recorded at the Registry of Deeds;*
- The easement rights for use of eleven (11) parking spaces on the subject property by the Long Block Condominium Association (as currently exists) shall be transferred to the new property owner. Written documentation of such easement shall be recorded at the Registry of Deeds and a copy shall be provided to the Town for the file.*
- The proposed restaurant/dining use hours shall be from 5:00 – 10:00 P.M.; and*
- A total of thirty-one (31) parking spaces shall be provided on the site. (For clarification - relief was granted for one space.)*

Mr. Ouimet seconded.

Discussion: *There was considerable discussion about the detailed language included in the motion and whether it was necessary to tie such specific conditions to the approval.*

MOTION: *Mr. Hauschildt moved to amend his previous motion by striking the “10:00 P.M.” closing time for the restaurant/dining use; the condition shall read as follows: “The proposed restaurant/dining use shall not commence before 5:00 P.M.”*
Seconded by Mr. Ouimet.

VOTE: *The motion passed 4-0. Mr. Thielbar abstained.*

Discussion: *After lengthy discussion again regarding the specificity of the motion and whether it was necessary, Chair Prior called for a vote on the motion on the floor.*

VOTE: *The motion passed unanimously.*

OTHER BUSINESS:

APPROVAL OF MINUTES: The minutes of June 17, 2014 were not available for the Board to review. They will be provided to the Board prior to the next meeting.

CHAIRMAN’S ITEMS: None

MOTION: *Mr. Carbonneau moved to adjourn.*

Mr. Hauschildt seconded.

VOTE: *The motion passed unanimously.*

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

The next meeting of the Exeter Zoning Board of Adjustment will be Tuesday, July 15, 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