

EXETER ZONING BOARD OF ADJUSTMENT JANUARY 20, 2015 MEETING MINUTES

PRESENT:

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

Alternate Members: Hank Ouimet

Building Inspector/Code Enforcement Officer: Doug Eastman

Deputy Code Enforcement Officer: Barbara McEvoy

The meeting was convened at 7:00 PM. at the Town Hall, 9 Front Street. Chairman Prior introduced the Board members and explained the protocol for the meeting.

AGENDA:

1. Case #1490: Exeter Farms Homeowners' Association - 27 Hampton Road
2. Case# 1491: Phillips Exeter Academy – 14 Tan Lane (Forrestal-Bowld Music Center)

NEW BUSINESS:

1. Case #1490: Exeter Farms Homeowners' Association

The application of for an Appeal from an Administrative Decision made by the Code Enforcement Officer and Zoning Board of Adjustment at the November 18th, 2014 meeting relative to the proceedings of Case #1480 (Seacoast Family Promise). The Applicant alleges that error was made with respect to the interpretation of the definition of "Community Building" and in determining compliance with Article 5, Section 5.2 Special Exceptions, subsection "A." (That the use is a permitted special exception as set forth in Article 4.2, Schedule I hereof). The subject property under consideration is located at 27 Hampton Road, in the R-2 Single Family Residential zoning district. Tax Map Parcel # 87-36.

Chair Prior announced that he wished to address a procedural matter with the Board relative to the application. He informed the Board that he had spoken with Town Counsel regarding the nature of the request and inquired as to its validity (i.e. Appeal of Administrative Decision v. Request for Rehearing). He represented that the Code Enforcement Officer had not made an administrative decision with respect to the proposed use (as identified in the subject application) being a 'community building' and that it was the choice of the Applicant to file the appeal using such language. He reiterated that there was no act of decision made by the Code Enforcement Officer and therefore, no basis for accepting the application for consideration.

Mr. Hauschildt commented that a request for rehearing would be the appropriate request for discussion of the concerns outlined in the submission.

DELIBERATIONS

MOTION: *Mr. Hauschildt moved to dismiss the application on the basis that, in accordance with RSA 676:5, no administrative decision had been made by the Code Enforcement Officer and therefore, the application had no merit to be considered.
Motion was seconded by Mr. Baum.*

Discussion: Chair Prior inquired if the Board wished to entertain public comment. Mr. Hauschildt indicated that it would be appropriate to inform the public of correct board procedures. Chair Prior stated that during the Board's consideration of the rehearing request for the Seacoast Family Promise application, ZBA Case #1480 (to be heard later in the meeting) Seacoast Family Promise) it would be determined whether the Board erred or was correct in its actions at the November 18th meeting. He noted that the concerns relative to the definition of 'community building' and compliance with the criteria of Article 5, Section 5.2 A. as outlined in this application would be addressed as part of that discussion. Chair Prior stated that it would not be appropriate for the Board to act on the application, as submitted.

VOTE: *The motion passed unanimously.*

2. Case #1491: Phillips Exeter Academy

The application for a special exception per Article 5, Section 5.2 and Article 4, Section 4.2, Schedule I- Permitted Uses to allow the construction of an addition to the rear of the existing Forrestal-Bowld Music Center on the PEA campus (private school use); and a variance to permit the proposed construction to exceed the maximum height requirement in the R-2, Single Family Residential zoning district. The subject property is located at 14 Tan Lane, Tax Map Parcel # 72-209.

Attorney Charles Tucker, of Donahue, Tucker & Ciandella PLLC and Mr. Mark Leighton, Facilities Director for Phillips Exeter Academy (PEA) were present to address the Board. A PowerPoint presentation was provided for the Board detailing the proposed construction of a 10,300 square foot addition to the existing music building on campus. It was noted that additional space in other buildings on campus was currently being used to accommodate their music program (i.e. performances being held in Phillips Church, etc.). It was represented that the proposed building would be constructed on existing parking area, and that additional parking was being proposed on the same parcel in the immediate vicinity of the music center. A Power Point presentation was provided giving an overview of the proposed site plans and elevations.

Attorney Tucker proceeded to address the criteria for the special exception. He indicated that the question of the "private school" use had come up at the Technical Review Committee (TRC) meeting. He stated that there would be no increase in the number of students and/or associated staff with the proposed expansion and that ten (10) additional parking spaces would be provided on the site. Attorney Tucker also noted that the proposal required Historic District Commission (HDC) review and they were scheduled for the February meeting.

Noting that some of the PEA events would be open to the public, Chair Prior commented that is where the problem of parking arises. Discussion ensued about the variety and occurrence of such events.

There being no further comments from the Board, Chair Prior opened the meeting for public testimony.

Mr. Mike Lambert, 18 Locust Street, inquired about this expansion being associated with the "Performance Center" proposal for Water Street that he had read about a number of months ago.

There was no further public comment; Chair Prior closed the public portion of the meeting and the Board moved into deliberations.

DELIBERATIONS

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

MOTION: *Mr. Hauschildt moved to grant the special exception, as presented, subject to Town Planner and Planning Board review and approval.
Motion was seconded by Ms. Davies.
VOTE: The motion passed unanimously.*

Attorney Tucker continued and addressed the criteria for the variance request for relief from the height regulations. He pointed out that the adjacent buildings along Tan Lane were actually taller than the proposed structure; however, the elevation of those adjacent properties was lower. He stated that the proposed increase in height for this building addition was reasonable as it was consistent with those abutting structures. Attorney Tucker reiterated that the building addition would have a footprint of 7,670 square feet and a proposed height of 42.5 feet.

MOTION: *Ms. Davies moved to grant the variance, subject to the proposed structure not exceeding 42 ½ feet in height, as presented.
Motion was seconded by Mr. Hauschildt. .
VOTE: The motion passed unanimously.*

At this time, 8:20 P.M., Mr. Hank Ouimet (alternate member) joined the Board.

OTHER BUSINESS:

Seacoast Family Promise – Case #1480

Request for re-hearing of the application for a special exception per Article 4, Section 4.2 Schedule I: Permitted Uses to permit the existing structure located at 27 Hampton Road to be utilized as a community building. The subject property is situated in the R-2, Single Family Residential zoning district. Tax Map Parcel #87-36.

Chair Prior reviewed the composition of the Board for the September 16th and November 18th meetings at which the application of Seacoast Family Promise (SFP) had been considered. He indicated that he had had discussion with Town Counsel relative to the proper procedure to be followed for seating of board members for the rehearing request. He was advised that there was no precedent or case law; however, it was appropriate for the largest number of members (that may be available) who had previously participated in consideration of the application to act.

Chair Prior noted that Mr. Ouimet was now seated with the Board and would be a voting member; Mr. Baum was excused at this time (but asked to stay for the business following this discussion). Chair Prior also noted alternate member Marc Carbonneau who had been present for the discussion at both meetings was unavailable this evening as he was out of state, hence, the reason for himself sitting.

Chair Prior stated that the board had received correspondence, dated December 16, 2014, from Attorney Somers on behalf of the Applicant. He indicated that the request outlined in considerable detail the ways in which the Board may have fallen short in its decision of the Seacoast Family Promise application for special exception. Mr. Thielbar inquired about protocol for discussion of the request. Chair Prior indicated that he would expect that Attorney Somers would come forward and present her contention to the Board.

Mr. Ouimet clarified that this was a request for rehearing and that typically the board will consider the content of the written request and does not entertain any verbal discussion with the Applicant (and/or public) during this proceeding.

The Board proceeded to evaluate all the points outlined in the letter from Attorney Somers. General consensus of the Board was that they concurred with several of the points raised by Attorney Somers and felt they had erred on several of their findings.

DELIBERATIONS

MOTION: *Mr. Hauschildt moved to grant the request for rehearing on Case #1480 based on the consensus that the Board erred on several of their findings.
Motion was seconded by Mr. Thielbar. .
VOTE: The motion passed unanimously.*

Tuck Realty Corp. – Case #1489

Requests for re-hearing of the application for a variance from Article 4, Section 4.3, Schedule II to exceed the dimensional height regulations for the proposed construction of two (2) four-story buildings with a height of fifty feet (50') on the R-4 (Multi-Family) zoned portion of the property located at 80 Epping Road. Tax Map Parcel #55-3 and a portion of Tax Map Parcel #62-111.

DELIBERATIONS

MOTION: *Mr. Hauschildt moved to deny the request for rehearing on Case #1489 as the information submitted was not justified grounds for a rehearing. It was represented that the issues brought forth in the request were environmental in nature and not within the jurisdiction of the ZBA. (It was noted that such issues would be addressed at the Planning Board level of review).
Motion was seconded by Ms. Davies .
VOTE: The motion passed unanimously.*

APPROVAL OF MINUTES:

There were no minutes available for Board action. (Draft minutes of the September 16th , October 2nd , October 21st , November 18th , and December 9th , 2014 meetings will be addressed at the February 2015 meeting.)

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

The meeting was adjourned at 9:15 P.M.

The next meeting of the Exeter Zoning Board of Adjustment will be Tuesday, February 17th , 2015 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