

These minutes are subject to possible correction/revision at a subsequent Exeter
Planning Board meeting

Exeter Planning Board

January 14, 2016

1. Ms. Bergeron called the meeting to order at 7:02 pm in the Nowak Room of the Exeter Town Offices on the above date.
2. MEMBERS PRESENT: Kathy Corson (Alt), Langdon Plumer (Alt), Gwen English, Ken Knowles, Kelly Bergeron, Pete Cameron, Don Clement (BOS Rep), Aaron Brown
STAFF PRESENT: Sarah McGraw (Recording Secretary), Glenn Greenwood
Ms. Bergeron stated that all regular members would be voting including Ms. Corson.
3. NEW BUSINESS PUBLIC HEARINGS

Public hearing on the proposed zoning amendments for 2016 Town Meeting warrant.

1. **Amend Article 9.2 to prohibit the use of fertilizer within the Aquifer Protection District and include a temporary waiver provision to this prohibition.**
Amend Article 9.3 to prohibit the use of fertilizer within the Shore land Protection District and include a temporary waiver provision to this prohibition.

Kristen Murphy, Natural Resource Planner, said that she has previously presented on the proposed ordinance. Currently fertilizer is prohibited in wetland buffers but not in shore land or aquifer districts. The proposed amendment would function similar to the wetlands ordinance. Ms. Murphy requested that the Planning Board move these proposed amendments to the Town Warrant Article.

BOARD COMMENTS

Mr. Clement commented that as part of the permitting process, waste water treatment reduces nitrogen that will help meet state requirements.

PUBLIC COMMENT: None

Mr. Clement motioned to move the proposed zoning amendment to Article 9.2 forward to be placed on the 2016 ballot; second by Ms. English.

Roll Call Vote:

1. ***Kathy Corson: Aye***
2. ***Gwen English: Aye***
3. ***Ken Knowles: Aye***
4. ***Kelly Bergeron: Aye***
5. ***Pete: Cameron: Aye***
6. ***Don Clement: Aye***

7. Aaron Brown: Aye

Ms. English motioned to move the proposed zoning amendment to Article 9.3 forward to be placed on the 2016 ballot; second by Ms. Corson.

Roll Call Vote:

- 1. Kathy Corson: Aye**
- 2. Gwen English: Aye**
- 3. Ken Knowles: Aye**
- 4. Kelly Bergeron: Aye**
- 5. Pete: Cameron: Aye**
- 6. Don Clement: Aye**
- 7. Aaron Brown: Aye**

The motion was carried unanimously

- 2 Citizens Petition: On the petition of Christopher Surette and other registered voters of the Town of Exeter, to see if the town will vote to:**

Amend Article 2, Definitions by adding a definition for “Mixed Use” to read as follows: “Mixed Use: the combination of residential and non-residential uses on one or more lots.

Amend Article 4, Section 4.2 Schedule I: Permitted Uses to allow “Mixed Use Multi-family Residential development” as a permitted use in the C-3, Epping Road Highway Commercial zoning district.

Amend Article 4, Section 4.4 Schedule III: Density and Dimensional Regulations – Non-Residential Minimum Lot Area/Dwelling Unit (Sq. Ft.) by adding reference to Note #21.

Amend Schedule II: Notes by adding Note #21 to read as follows: Residential density for multi-family development is 5,000 square feet per dwelling unit.

Amend Article 4, Section 4.4 Schedule III: Density and Dimensional Regulations – Non-Residential Minimum Lot Area/Municipal Water & Sewer by adding a reference to Note #22.

Amend Schedule III: Notes by adding Note #22 to read as follows: Municipal water and sewer and underground utilities are required.

Amend Article 4, Section 4.4 Schedule III: Density and Dimensional Regulations – Non-Residential Minimum Yard Setbacks – Front by adding reference to Note #23.

Amend Schedule III Notes by adding Note #23. to read as follows: Minimum front yard setback of 500 feet required from Epping Road for Mixed Use Multi-family Residential development.

Dan Chartrand spoke about the proposed amendments as a BOS member, BOS representative to the

Economic Development Commission and resident of 63 Jady Hill Ave.

Mr. Chartrand said that voters will be educated on mixed use development in the C3 zone. He said the intent of the citizen's petition is to start a debate on the issue. The terrain in the C3 zone is difficult to develop with town wide wetlands restrictions and rough terrain. The EDC voted to support citizens' petition on this concept. Mr. Chartrand said he has heard the concerns for the amendments and the EDC felt the amendments would not pass though Planning Board. This change could expand the tax base for water and sewer rate payers. Mr. Chartrand said he did not discuss these amendments in December because the final version was not allowed to be discussed.

BOARD COMMENT

Ms. Corson asked to hear from the public before board comment. Ms. Bergeron stated that this was not normal board operation. Ms. English commented she was uncomfortable with using the citizen's petition to educate the public on the issue. She said she hoped there was a better way to educate the public. The public voted last march for Epping road to be a commercial district. Ms. English said that a zoning ordinance review committee is one way to discuss zoning regulations. She added a permanent planner is needed to review these issues.

Mr. Knowles said he was not opposed to mixed development but agreed that a citizen's petition is not a good way to educate the public. He said that he disagrees with some of the language but knows the language cannot be changed at this point.

Mr. Cameron said he was also concerned about the permanency of the language. Ms. Corson said this will go on the ballot no matter what. She said if this gets on the ballot, there will be no room for discussion. Mr. Clement said that it can be discussed at town meeting if a motion is made to discuss zoning articles.

Mr. Clement asked the audience for how much commercial land would be taken out of play if the amendment passes.

Mr. Winham said that no land would be taken out of commercial development allowing mixed used beyond 500 feet of the corridor. Mr. Clement asked how much would be residential. Mr. Winham said everything beyond 500 feet of the corridor.

Mr. Knowles added that it is not land area to think about but the density.

Mr. Clement asked how much potentially developed land would become residential. Mr. Chartrand said it puts into play the 500 feet from the road to be developed commercially. Mr. Chartrand said there is a long history of parcels not being developed. The Town may need to accept residential to get any development on the property.

Mr. Clement asked if residential will create more sewerage than standard commercial development. Any new development would now have to be on water and sewer according to the amendment language.

Mr. Chartrand said that there is excess waste water capacity available. Mr. Clement asked if there was a study done. Mr. Knowles said this would not be difficult to analyze.

Mr. Brown said he respects the approach as a form of government and agreed that it is not a good way to educate the public. It allows for the opportunity for a big zoning change. He suggested that there should have been a way to look at the meaning of the change through visual presentation. He was troubled for this to go right to the voters without much input. He suggested the group does more education.

Mr. Chartrand said he encourages the Planning Board to look at their deadlines to allow for citizen's petitions. Mr. Knowles said that the Planning Board has no authority to change time lines per the RSAs.

Mr. Chartrand said the EDC would like to have more conversations with the Planning Board and along with an updated Master Plan. Areas for cooperation and vision for land use is the responsibility of the Planning Board. Mr. Knowles asked if this was discussed by the EDC in May, why it wasn't brought forward until now. Mr. Chartrand said that they were not ready to discuss until October. He said they would like to work with the Planning Board in the future.

Mr. Brown said he didn't think the Planning Board forced the citizen petition route. Mr. Brown said he sees more visuals on minor cases. He was troubled by the lack of data and presentation.

Mr. Plumer said it seems like the EDC doesn't expect acceptance by voters. A recently approved residential project has already created increases on the rate payer.

Ms. Bergeron stated that she had emailed all chairs of land use boards about zoning changes and did not receive responses except for fertilizer amendments. Ms. Bergeron asked for the public to keep comments to two minutes or less and try not to reiterate previously made comments. Ms. Corson commented that since this is a new public hearing than any comments made would be new.

PUBLIC COMMENT

Len Benjamin of Windemere Lane, now resigned from the EDC before the petition was up. He said he was against the petition because the area was already zoned for commercial development. His concern was for quality of life. He was not sure how new residential development will affect congestion along with the costs associated with housing. He supports commercial development in the C3 zone.

Bill Campbell of 111 High Street in Exeter said that more discussion was needed. The two chapters of

the master plan being worked on currently were Housing and Land use. He said that the deliberative session is not the place to discuss amendments. Mr. Campbell said that there is a need for more housing to accommodate families with children.

Ann Surman of 12 Hampton Falls Road said that the citizen's petition was not a good forum for discussion. She added that there is no meaningful discussion at deliberative session. She thought this process was going around the expertise of the Planning Board. The public had passed the TIFF district for commercial development last March.

Gerry Hamel of Little Pine Lane, stated that the C3 zone was one the last commercial areas. He said that the proposal would interfere with other projects. The petition should have been vetted through the Town and brought to Planning Board.

Barry Sandberg of Watson Woods on Stonewall Way said that as a former member of the EDC he appreciates the work of Darren Winham and Dan Chartrand. He said he did not think this was a good idea. Mr. Sandberg said he was appointed by the Planning Board to the Housing Advisory Committee, a new committee which could be a proper venue for discussion. He was looking forward to being a part of the process.

Richard Robbins of 40 Dogtown Road said he was opposed to the project. He had reviewed the goals of the EDC and found that mixed use development was not included. He said he commends the work done by Darren Winham for work but the town needs a commercial base.

Chris Vaughn of 348 Water Street said she was also opposed to the citizen's petition. The tax benefit brought on by the new TIFF district would be weakened and diluted with residential development.

Chris Surrect of 32 Captain's Way said he currently sits on the EDC. He said the entire EDC voted on the petition. He said that they had talked to citizens about the petition. Using the King property as an example, it wouldn't be financially viable commercially. The citizen's petition would put the issue in the hands of voters. He said if there was a concern about more children, the project would add only 20 children. The property has been sitting for sale for 15 years undeveloped.

Mr. Knowles clarified that all zoning changes go to town for vote.

Ginny Raub of Kathleen Drive said that she feels the town needs a way to discuss the issue. The Town has the Rockingham Planning Commission and the housing advisory committee as a means to discuss housing issues. Currently citizens are deciding on planning issues without expertise.

Darren Winham of 3 Juniper Ridge Road, agreed that the Master Plan and Economic Development Strategic plan needs to be done. He has worked on Epping Road for a year and half. The alternate solutions need to be considered because of topography and layout. He said that the entire area needs to be rezoned. He said that the EDC received a project presentation in October. The developer tried looking at different uses. He said that commercial development can be driven by residential development. Mr. Winham read part of TIF objectives. He commented on the wording of the language

and said that legal counsel agreed with the language.

Ms. Corson asked Mr. Winham if residential was included in the presentation to the BOS for the TIF district. Mr. Winham said the way it was worded to include all options. Ms. Corson said they approved Sterling Hill in 2001 and the final building was only finished recently. Mr. Winham said the amendments offer an opportunity for residential as well as commercial. Ms. Corson said she has issue with putting out a bond for water and sewer if the project could take 16 years. Mr. Winham said that the Town wouldn't put money forward until they have infrastructure in place.

Len Benjamin commented if the amendment passed would the entire C3 could be residential with no limits, except for first 500 feet.

Gerry Hamel noted that Walmart was scheduled to go out on Epping Rd but lost to Epping which meant that commercial development was viable.

BOARD COMMENT

Mr. Knowles motioned that the Planning Board does not support the proposed amendments. Mr. Greenwood said the Board needs to either approve or disapprove as it is stated in the RSA.

Mr. Knowles motioned to disapprove the Citizen's petition of Christopher Surrette and other registered voters as presented second by Ms. Corson.

Roll Call Vote:

- 1. Kathy Corson: Aye***
- 2. Gwen English: Aye***
- 3. Ken Knowles: Aye***
- 4. Kelly Bergeron: Aye***
- 5. Pete: Cameron: Aye***
- 6. Don Clement: Aye***
- 7. Aaron Brown: Aye***

The motion was passed unanimously.

- 3 Citizens Petition: On the petition of Christopher Gilroy representing 25 Hampton Road #A3 in Exeter, NH and other registered voters of the Town of Exeter, to see if the town will vote to "Amend Article 4.2 Schedule I: Permitted Uses by adding the language: "A special exception for a community building in the R-1, R-2, R-3 & R-4 districts may not include a methadone clinic, marijuana dispensary, sexually oriented business, homeless shelter, nor homeless day-center."**

Christopher Gilroy stated that he lives in the R2 Zone. The request to change the zoning ordinance stems from ambiguous language pertaining to special exemptions for the R1-R4 zones. He said that the master plan does not include special exemption. Mr. Gilroy said that entities may be welcome in

Exeter but not appropriate for residential neighborhoods. He said he went before the Board last year but went forward unsupported. The request to change the language was meant protect residents.

BOARD COMMENT:

Ms. Corson said she thinks it does need to be clarified.

Mr. Plumer agrees there is a lack of communication. He did not see the problem with a day center in these neighborhoods. Ms. English said she would also be concerned about the mentioned uses as well if they were in her neighborhood and wished there was a chance to talk about this sooner.

Mr. Knowles asked where the language was located in the article.

Mr. Gilroy said that the Planning Board thought eliminating the word "community building was too strong. Mr. Gilroy said this year they opted to eliminate words that they did not think belonged in the neighborhood.

Ms. Bergeron said sexually oriented businesses are not allowed in those districts already. Mr. Gilroy said that case law supports existence of this use in the neighborhood.

Mr. Cameron said he doesn't know this proposed article would fit in the schedule. Mr. Gilroy said it could go under special exceptions. Mr. Gilroy said that he had assumed Town Counsel had looked over the proposed article.

Mr. Greenwood said that the language could go under a new note at the bottom in the special exceptions column. This would be done 4 times. There is nothing that says prohibited language is not allowed.

Mr. Clement said he understands the intent for appropriate activities in these neighborhoods but why not include R5 and R6. He also did not know the definition of homeless day center.

Mr. Brown commented that he had voted in favor of this last year but did not understand the current tangible hardships brought to Mr. Gilroy.

Mr. Gilroy said he does not want to speak on others behalf but said he is a manager of an investment property. He would see tangible loss in property value if certain uses were allowed. Mr. Gilroy said a letter was sent to the Planning Board about the process. He gave an example of a property owner losing value because of an imminent day center.

Mr. Brown asked if the problem is for any property in current use or if this was theoretical. Mr. Gilroy said that these uses are pending. Mr. Brown says it is theoretical loss of property value. Discussion ensued about theoretical or tangible losses. Mr. Brown said they should recognize these interested citizens and the town should open up availability to the public.

Ms. English asked if Mr. Gilroy had looked at other community's language. Mr. Gilroy said that this is precedent setting and unique to Exeter. Anything that qualifies as a community building would be allowed in Exeter. The language is ambiguous.

PUBLIC COMMENT:

Mr. Campbell of 111 High Street commented that he was uncomfortable with the way any citizen's petition would change zoning. He pointed to zoning article schedule 1 under permitted uses. If the permitted uses were not listed under special exception then they should not be allowed to apply for one. A non-permitted use would not fit the philosophy of the section.

Matt Carbone, of Exeter Farms said that he appreciates the Planning Board's work. He would like to keep the community buildings separate from residential. Knowing that the day center is imminent in their neighborhood, they would like to prevent other neighborhoods from going through the same issues. After voting to allow community buildings they did not think a homeless day center would go under this use. Mr. Carbone discussed his properties and is second guessing the value if a homeless shelter went in. Mr. Carbone asked if the Planning Board had taken any action on the wishes of the concerned citizens. Mr. Clement said that there was no action taken. Mr. Carbone asked if the Planning Board changed the definition of community building.

Mr. Brown said they did not change the definition. Mr. Carbone said that there is an exemption in Exeter zoning law for the exception for non-profits for social and recreational services. He said that case law solidifies the community building definition. The recreational services of a non profit can be closed to the community. The courts called the location of Seacoast Family Promise as a transitional zone. It was a Residential zone and abutted the Professional zone. The ZBA nor courts talked about reason for existence of the transitional zone. There were restrictions for what was allowed and permissible to protect properties on that road. He was asking the Planning Board to support Chris's article. He stated in the Master Plan 5 out of 11 neighborhoods would have supported this businesses transition zone. Case law stated 11 out of 11 neighborhoods can have social services in the neighborhood.

Mr. Clement asked which neighborhoods he was referring to. Mr. Carbone said that it is in the Master Plan. He said that they want the same respect as TIF and industrial zone.

Jay Ludico of Hunter Place said this issue is a matter of zoning for future uses and clarifying descriptions.

Mr. Brown asked where the allowance of community building with special exception fits and is it in every zone. Mr. Greenwood said it is permitted in R5 with special exception in R6. Mr. Brown said that this is the time to correct the problem. If the Planning Board does not like where it sits in the matrix, it is a good reason to support the amendment. Mr. Greenwood said that it address a specific issue and does it does fit in the matrix.

Mr. Clement said that community centers will help homeless during the day. He asked if this new article would stop churches from helping homeless. Mr. Knowles said that it isn't the primary purpose of a church.

Mr. Knowles motioned to approve the petition of Chris Gilroy as presented, second by Ms. English.

Roll Call Vote:

- 1. Kathy Corson: Aye**
 - 2. Gwen English: Aye**
 - 3. Ken Knowles: Aye**
 - 4. Kelly Bergeron: Nay**
 - 5. Pete: Cameron: Nay**
 - 6. Don Clement: Nay**
 - 7. Aaron Brown: Aye**
- The motion was carried.**

Mr. Knowles said that the Board should clarify the definition of community building whether or not the article passes. Mr. Brown said that Mr. Carbone handed in a record of decision from the judicial branch to the Board.

4. APPROVAL OF MINUTES

Mr. Brown said he was concerned that at the November 19th meeting they could have voted in favor of the FW Webb case but did not. They did not have the Town Planner's comments to make a decision at the meeting. Mr. Clement said that the plan submitted did not show the parking plan. Mr. Brown said that there should be consistency in approving these types of decisions. There was a delay on the approval of a minor item. Ms. Bergeron asked to table the discussion

Mr. Plumer moved to accept the minutes from November 19, 2015 as amended; second by Mr. Cameron.

Roll Call Vote:

- 1. Kathy Corson: Aye**
- 2. Gwen English: Aye**
- 3. Ken Knowles : Abstained**
- 4. Kelly Bergeron: Abstained**
- 5. Pete: Cameron : Aye**
- 6. Don Clement: Aye**
- 7. Aaron Brown: Aye**
- 8. Langdon Plumer: Aye**

The minutes were passed as amended.

Mr. Cameron motioned to approve the minutes from December 10, 2015 as amended; second by Mr. Plumer.

Roll Call Vote:

1. **Kathy Corson: Aye**
2. **Gwen English: Aye**
3. **Ken Knowles : Aye**
4. **Kelly Bergeron: Aye**
5. **Pete: Cameron : Aye**
6. **Don Clement: Aye**
7. **Aaron Brown: Aye**
8. **Langdon Plumer: Aye**

The minutes were passed as amended.

Mr. Plumer motioned to approve the minutes of December 17, 2015; second by Ms. English.

Roll Call Vote:

1. **Kathy Corson: Aye**
2. **Gwen English: Aye**
3. **Ken Knowles : Abstained**
4. **Kelly Bergeron: Aye**
5. **Pete: Cameron : Aye**
6. **Don Clement: Aye**
7. **Aaron Brown: Aye**
8. **Langdon Plumer : Aye**

The minutes were passed.

5. **OTHER BUSINESS**

Mr. Greenwood said he was uncomfortable with 80 Epping Road development as it contradicts the variances that were granted. Mr. Greenwood talked with Code Enforcement, Town Counsel and in an email from Jae Whitelaw, that the subdivisions granted in October and December 2015 contradicts the variance. Mr. Greenwood would like to give applicant guidance but wants Planning Board to review first. The Case (# 21527) is noticed for February 18th but he believes will be continuing on to February 28th. Ms. Bergeron said if they have to go back and resubmit would mean have to present entire project.

Ms. Bergeron discussed a letter form Barbara McEvoy regarding receiving meeting packets in PDF version.

Mr. Brown asked if there was a way to engage citizens on zoning amendments. Ms. Bergeron suggested an announcement for changes to zoning amendments as a Public Hearing.

Ms. Corson asked if there will be a town planner soon. Mr. Clement said that they have been kept in

the dark about a new town planner.

Ms. Corson said that Barry Sandberg mentioned the Housing committee and they should appoint a PB members to the committee. Ms. Corson expressed her interest in Housing Committee along with Mr. Plumer.

Mr. Clement motioned to appoint Kathy Corson as Planning Board representative to the Housing Committee and Mr. Plumer as alternate, second by Mr. Cameron.

Roll Call Vote:

- 1. Kathy Corson: Aye***
- 2. Gwen English: Aye***
- 3. Ken Knowles: Nay***
- 4. Kelly Bergeron: Aye***
- 5. Pete: Cameron: Aye***
- 6. Don Clement: Aye***
- 7. Aaron Brown: Aye***

VOTE: 6-1

Mr. Knowles moves to adjourn, second by Ms. English. VOTE: Unanimous.

The meeting was adjourned at 9: 51 pm.

Respectfully Submitted,
Sarah McGraw, Recording Secretary