

**DRAFT MINUTES  
EXETER PLANNING BOARD  
June 23, 2016**

**1. Call to order:**

The session was called to order by Vice Chair Katherine Woolhouse at 7:00 pm.

**2. Introductions:**

Present were Don Clement, BOS representative, Pete Cameron, Clerk, Katherine Woolhouse, Vice Chair, Langdon Plumer, and Aaron Brown. Kathy Corson joined the board later, at 9:07 pm.

Also present were Staff Members Dave Sharples, Planner, and David Pancoast, Recording Secretary.

**3. New Business: Public Hearings:**

Continued public hearing on the application of Soja Park-Bennett Revocable Trust for two lot line adjustments to reconfigure the three (3) existing lots located at 153 High Street and Folsom Way to create three conforming building lots. The subject properties are located in the R-2, Single Family Residential zoning district. Tax Map Parcel #70-144, #70-145 and #71-72. Case #21526.

Mr. Sharples said there was nothing major in Underwood Engineering in its comments, they suggested a final grading plan be submitted before final board approval. The board can decide whether to allow that approach or not. He said rain garden #1 is set, but gardens #2 and #3 are not. The design engineer would have to address those issues tonight. Corey Felton, design engineer of Altus Engineering, said the design is logical for constructing the rain gardens considering the elevations of the lot. The gardens will be generally as shown on the plan, but might be tweaked due to grading.

The clogging of a nearby catch basin was reported by the Planner and it might have contributed to the earlier reported water problems. Mr. Felton responded that the public catch basin is clogged, but should be cleaned out by the Town, not the applicant. He said the current plan is to do a lot line adjustment into three new lots and Lot #2 and #3 will be served by a common driveway. The concern over

elevations and slopes on the site was lessened during the sitewalk when it was observed they aren't bad farther down into the access area. An applicant's letter was submitted on 6/17 in response to the comments. Minor changes to the plan were made in response to those, they will be putting in an electric service pole near the new driveway with an underground line to a transformer on a pad. The board has the applicant's response to Underwood's comments.

Ms. Woolhouse then asked for board comments. As to changes in size and location of the rain gardens, Mr. Felton said the buildings are not yet designed at all, so the driveway might shift. The applicant is willing to do a final grading plan after all is designed so that the board knows that its approval intent is properly met. If it changed radically, the applicant would have to come back. Mr. Brown was concerned about a possible sale of this to a different developer after approval and that things might get lost in the process. He felt it should be approved as designed but with a note that the applicant can move them. Mr. Felton said it is all fully designed and has been modeled.

Applicant Gerry Hamel said that the large lots gives some leeway with house location, that's the sole reason for possible tweaking of the rain garden location. He said that they might sell the project. Mr. Plumer then discussed Tract 1 on the Sheet S-1 being configured purposefully to prevent further development of Lot #1, which has 200 feet of frontage. Mr. Felton said the design storm is the 100 year. Mr. Sharples said that the proposed condition of approval says that no major changes occur on the project or the plan comes to the board.

Mr. Felton said that when they sized the rain gardens, they used 3,000 square feet ("sq ft") for a likely building footprint, plus 1,000 sq ft for additional impervious area, per lot on the site. So it's 4,000 sq ft per lot of impervious surfaces. Mr. Felton said that the distance to a house doesn't affect it but any rain garden must be below the house in elevation. Mr. Sharples said that if the applicant saw a 10,000 sq ft house proposal, it should raise a flag about the sizing of the rain garden for it. The applicant agreed to that approach.

Mr. Cameron was concerned about preserving the nice trees. Mr. Felton said that the applicant has identified some trees to preserve.

Mr. Clement thought the Town should clean out the Town catch basin. He is only concerned with any re-sizing of the rain gardens. The submission shows that a 300 sq ft rain garden is adequate for 4,000 sq ft of impervious surfaces. Mr. Felton said it's two feet deep and that the 300 sq ft sizing handles the 100 year storm. A standard maintenance agreement for the stormwater systems was discussed and the Town does have a standard maintenance agreement for private stormwater facilities. Ms. Woolhouse said that Underwood suggested that a safety factor if field testing isn't done. Mr. Felton responded that the rain garden is designed for water to infiltrate into the ground. The safety factor is built into that aspect of it, because some water always infiltrates into the ground on these.

Public input:

Kevin Baum, Esq. of Hoefle & Phoenix, appeared for abutter Perry. He asked for clarification of the five foot buffer and that it be a deed restriction not just shown on the plan. Perry would like something to keep owners of these lots from snowplowing onto her land. Perry would like to see some sort of clear third party enforcement provision. It might all be maintained in the beginning, but not so well later on, after re-sales and such. The abutter would like to have the town be a party so it has enforcement rights. Mr. Baum was concerned that the abutters have not had any opportunity to review the Underwood comments nor the applicant's response to them. It would be nice to postpone this decision to allow abutter review and input. His client would also like the inclusion of the oak tree on the boundary line for protection, as mentioned in the arborist's letter that Ms. Perry had previously submitted via email to the Planner.

Jay Steary of 11 Folsom Court, mentioned that the ambiguities of the maintenance of the shared rain garden should be cleared up as it is different from the driveway, and downhill abutters could experience a problem, so please scrutinize the language on it.

There being no further public comment on the matter, Mr. Brown moved to close the public hearing and Mr. Cameron seconded it. A roll call vote was unanimous to close the hearing to public comment.

There was discussion on Underwood's comments coming that day and the board's comfort level with a possible approval. Mr. Sharples said that for building permit submission, a final grading plan and a letter from the design engineer stating that the rain garden final design meets the approval intent and is sufficient for stormwater protection must be submitted. He added that third party review may still occur on that last applicant submission of final grading plan.

Mr. Brown asked how critical the rain gardens are in this location. Mr. Felton said that the peak flows would increase if there were no gardens. A third of the flow volume is coming down Folsom Street. The other 2/3 comes from the larger area of the existing lots. By creating swales and such, the applicant is increasing the time the water is held in the system, with an intent to slow it all down. If there were no maintenance of the rain gardens, Mr. Felton said their intent is to reduce the peak flows, so in a 25 yr storm, peak flows are less, but not the overall volume. There is a wetlands downstream. The volume of water is the same both 'pre-' and 'post-development'. If the rain gardens were not functioning, then peak flows would be higher but other stormwater features there would offset the presence of the water. Mr. Brown said the board would be irresponsible if it didn't cover this appropriately. Mr. Clement was not sure how the board or town would enforce it. Mr. Sharples said he had addressed that in his memo to the board. The applicant needs to do a maintenance log and checklist, which must be provided to the town engineer and board (the Planner) on or before January 1<sup>st</sup> of each year. In this case the Town takes on the obligation and has the right to step in. There was then discussion on enforcement.

Mr. Sharples said that this as long as there is a shared driveway, the board must be sure of the proper approach. There was discussion on a mini-management plan approach there. Mr. Brown said that the resizing of the rain garden as triggering a review might need to be considered. Mr. Felton said this approach isn't typical. The rain gardens are designed for a 100-yr storm event. Mr. Brown said that all the agreements on design don't matter if it's not maintained. There was discussion on provisions for maintenance of rain gardens in a stormwater agreement. Mr. Sharples said the stormwater agreement gives third party enforcement rights to the Town. Mr. Brown asked if homeowners can actually do a stormwater maintenance report. There

was discussion on the requirements and homeowners being aware of them. There was discussion on the sources of the stormwater. Mr. Plumer explained that the water management is dictated by the amount of impervious surface placed on the site. Mr. Sharples said pre-development and post-development volumes are to be managed.

Mr. Brown said the board should not get involved in snow storage locations. Mr. Plumer said that the five foot no disturb zone is a condition of any development. There was discussion of the five foot buffer. Ms. Woolhouse asked the Planner to go through the proposed conditions of approval.

[Mr. Sharples presented part of his list of proposed conditions of approval, which are incorporated herein by reference only, for purposes of minutes brevity.]

Discussion on a waiver for the driveway was held. It was decided that a waiver was required. It was concluded it is a driveway, not a street. Mr. Felton read the following waiver request into the record for board consideration: "The proposed shared private driveway will service two residential single family lots. The proposed residential section is 14 feet wide with three inches of bituminous asphalt, a one-inch wearing course and a two-inch binder course over six inches of crushed gravel and twelve inches of bank run gravel. We do not feel that the traffic volume for two single family residential houses warrants an increased pavement 'section' and request a waiver for the proposed driveway 'section'." ['Section' = thickness of asphalt and its underlayment.] Mr. Brown then moved that the stated waiver be granted for the driveway for any applicable asphalt pavement thickness, under board Regulation Section 7.5.16, as requested. Mr. Plumer seconded it. There was no discussion on the motion. A roll call vote was unanimous for approval of the waiver request as stated.

[At this point the board continued its discussions/deliberations regarding the proposed conditions of project approval, which are further incorporated herein without recitation, for brevity.]

Mr. Sharples specifically included the following requested provision: "The large oak tree located along the common property line between Lot 71/Map 71, which is the Perry's, and the development, pursuant

to an email submitted by the owner of Map 71/Lot 71 (Perry), shall be adequately protected during construction and an appropriate note shall be placed on the final plan.”

There was discussion about the language regarding the maintenance plan, whether it should read the “applicant” (which might sell off the project after approval) or the “property owner.” The condition was then modified to require the property owner [rather than the applicant] to submit and follow the maintenance plan after approval. That is an ongoing condition of approval so long as this project approval is in place. The developer is responsible until they sell their interests.

Attorney Baum then asked about all the approval conditions being put on the plan, to have them on the Registry of Deeds record. After discussion on that, the board decided not to put it all on the mylar plan, since the approval conditions will have it and also be recorded.

Mr. Brown said there is no ‘trigger’ for increased impervious surface area. Mr. Sharples said that the design engineer should catch it. All must be submitted during the building permit application process.

There was discussion on the size of future house footprints and future designs. The board is comfortable with the Underwood report on it.

Mr. Plumer then moved that case #21526 for lot line adjustment be approved with following Conditions #1-13 as discussed and proposed by the Town Planner:

[Mr. Sharples then reread the proposed 13 special conditions into the record, for the motion and vote.]

The motion was seconded by Mr. Clement. On discussion Mr. Cameron raised an issue with the “deeds”. Mr. Sharples said it was meant to cover proposed lots #2 and #3 and Mr. Cameron said it should reflect that. Mr. Plumer and Mr. Clement both approved that suggested motion change. Mr. Cameron then said Condition #8 may not be the same “applicant,” if the property is later sold. The applicant connotation there is the “project applicant.” There was discussion on the approach on this issue, as the project applicant might be out of

the picture, and it was decided to state it as “the applicant, their heirs, successors and/or assigns.” That language change was approved.

There were no other board comments. A roll call vote was unanimous in favor of project approval, subject to the noted conditions.

[Kathy Corson then joined the board at 9:07 pm]

#### 4. **Other Business:**

Mr. Sharples discussed the proposed regulation changes which he had presented to the board on 6/8/16. There are several substantive changes he had proposed. He did not think the Town wanted to step into a private matter to finish all of it and it shouldn't. The bond should only be for all public infrastructure improvements, which should be bonded as responsibilities of the Town to adopt in the event of a project failure, even if it's a private road. Mr. Sharples did not think the Town should require bonds on private property improvements. The Town should only want a private property bond in place to only protect the site and stabilize it to prevent erosion, etc. There was discussion on offsite improvement bonding. Erosion control and site restoration bonds are necessary and valid to protect the Town's interests in failed project situations. The board would only bond a condominium common area, not everything else. Mr. Sharples said the board has authority to do this. Ms. Corson asked if a working group on it was worthwhile. Mr. Sharples said it's up to the board but he would accommodate that if the board wanted to do it. The Planner's proposed regulation Sections 12-17 would replace existing Sections 12-17.

He said that stormwater agreements should be recorded if they are used, but he doesn't think they are necessary. Site agreements are not necessary-they are duplicative.

There was discussion on the approach on this proposal. The “State plane” was discussed-the Planner reported that it's commonly used locally by engineers and surveyors anyway. There was discussion on the proposed regulation changes. Mr. Clement stated that he has faith in the Town Engineer and Town Planner but has a problem with administrative changes from an abutter's perspective, who wouldn't get any input on them. Mr. Sharples understood and agreed.

There was more discussion on process and regulations changes. A revision draft will be presented to the board by the Planner for the next session and this matter will be on the agenda for each upcoming session until it is resolved to the board's satisfaction.

**5. Minutes:**

The Chair tabled the consideration of the pending minutes to the next session.

**6. Town Planner's Report:**

The Office of Energy Planning conference material submitted by Mr. Cameron is excellent and should be considered by the board to use.

He discussed the Federal Transportation Alternatives Program ("TAP"). Any application requires a letter of intent due July 1st for proposals for grants for pedestrian, non-automobile projects. He is going to submit the intersection at Rtes 27/111, which is a difficult area and will propose a pedestrian crossing there. There was also discussion on sidewalk projects under this item. The Town needs to meet minimum the grant amount of \$400K for any proposal, so the Town will add more project areas to get to that amount. The match amount is 20% and he is submitting this by July 1, 2016.

**7. Representatives' Reports on Other Committee Activities:**

There were no reports.

**8. Adjournment:**

There being no further business, Mr. Plumer moved adjournment, which was seconded by Mr. Brown and the vote was unanimous. The session was adjourned at 9:58 pm.