

**DRAFT MINUTES
EXETER PLANNING BOARD
July 28, 2016**

1. CALL TO ORDER:

Chair Kelly Bergeron called the meeting to order at 7:00 pm.

2. INTRODUCTIONS:

Present were Don Clement, BOS Representative, Langdon Plumer, Kelly Bergeron, Chair, Aaron Brown and Gwen English, all full members. All members were voting that evening, per the Chair. Staff present were Dave Sharples, Planner, and David Pancoast, Recording Secretary. Members of the public were present as well.

3. NEW BUSINESS:

Paul Deranian – PB Case #21608. Minor Subdivision at 78 Linden Street (Units C & D), in the R2 Residential Zoning District, Tax Map Parcel #95-53-01 (Units #1 and 2).

This was a continued matter, due to a legal opinion from Town Counsel. Mr. Sharples reported the legal opinion explaining the waiver request and the regulations that apply. The Board had to vote on two sets of criteria (copies in its packets). The Board needed to decide if the application met the stated criteria. Without this waiver there was no further moving forward on this application. The opinion of counsel is protected attorney-client privilege unless the Board decided to waive it.

The Chair said that the first waiver is for the private right-of-way driveway, and read the regulation into the record. She said she was not present at the last session when this first arose. The subject parcel is only 50 ft in width, so as she read the regulation, the applicant can't make a right-of-way on this since the lot is only 50 ft wide. It is also served by two lots and the regulation says it can only be served by one lot. Her understanding was that

the driveway would serve both lots. Mr. Brown suggested that the applicant speak to the updated information. Henry Boyd of Millenium Engineering, spoke for Dr. Deranian and said he had given a thorough review of all the material. There was no intent that this right-of-way ("ROW") become a public street. He said his client is asking for a waiver, which the Board has the power to do-it can waive anything that it feels is worthwhile to do. The purpose was solely to avoid having to create a new public street. He discussed the small amount of frontage. The applicant's lots still have the requisite frontage and size in the zone for this application. They could design a new street in there, even if they needed a waiver to do it. The Board can simply allow these lots, which meet requisite size, area and frontage, to do this. The local tax revenue will go up if the lots are separated instead of remaining as condominiums.

Ms. Bergeron asked the Board for questions. Mr. Clement discussed with Dr. Deranian that originally he could do only what had already been done. Dr. Deranian responded that technically he didn't do the original application, Square One Property did the original application in this manner and now he as applicant was seeking relief on this.

Mr. Boyd mentioned that he didn't see any benefit to his client designing a whole street, and maybe the Board would deny any future waiver on that submission, but also maybe it would approve it. This is not creating a non-conforming situation. Mr. Plumer asked the Planner to go through details.

Mr. Sharples said that under Regulation #9.17.5, the applicant can't create a hardship, a legitimate one has to exist, but the Board may allow an exception if a natural characteristic makes it worthy of a private ROW, and then only one lot can be served. If the Board granted a waiver from that, from hardship natural characteristics if they exist, then the Board can get to the issue of one lot, then the applicant would need a waiver for the regulation stating it can be only one lot, so the Board would then go to Section 13, and if that is met, grant it, if it's not met, then it would not be

granted. The Chair asked about the 100 ft of width in that regulation and the Planner said it is 100 ft of lot width, and it is ok that it's on a private ROW. He read the lot width definition into the record. Mr. Boyd said the regulation is poorly written, but that this application does comply with it.

Mr. Brown said that the Town Attorney had opined that he was not favoring the application, that in most towns a condominium is considered a subdivision. Mr. Brown continued that it's pretty heavily developed property already. It can be sold, if as a condominium. Dr. Deranian replied that he was told the only way this could have been done originally was as a condominium, so there was one built for him, and other one built for the investment. Mr. Brown said that free standing zero-lot-line condominiums do exist. It's tough arguing a hardship here where it is saleable, with not much difference in the two values if he sells it. Dr. Deranian said he would like to sell it as a single family house ("SFH"). Mr. Brown said he is in the industry, and Dr. Deranian already has a saleable property from what he has there as of that day. Selling as a condominium might affect financing, but Mr. Brown thought it wouldn't. He further said that it bothers him that this application got this far in the process. If Dr. Deranian was to now price it appropriately in this market as a condominium, Mr. Brown thought that he would sell it within six months.

Ms. English supported Mr. Brown's statements. Ms. Bergeron said that she was having trouble with this application and had read it many times. She thought that the project had been designed "way back when" and seemed to fit what Mr. Brown was saying now. The other piece of this regulation under review was that only one property can be served by the applicable ROW to Linden Street, so she also agreed with Ms. English on that element.

Public comments:

Tom Bergeron, a resident of Town, asked what if this was not a private drive on a dead-end street, couldn't this be approved?

Mr. Boyd said he understood what the Board was saying. He said that Mr. Bergeron was saying it is a shame to design a street when a waiver could be accommodated to avoid doing that. DPW is stretched to its limits and having to maintain another 100 ft of public street is not a good idea. He thought that the gentleman was correct that a public street isn't worth doing. Mr. Clement asked if a motion is necessary on this case. Mr. Sharples said absolutely necessary. Mr. Clement then moved that the Board deny a special exception to its Regulation # 9.17.5, specifically because the parcel does not meet the natural characteristics of a hardship in this situation. Ms. English seconded and, on discussion, it was asked if the Board still needed the other waiver decided? It was concluded that it did need both. The vote on the first waiver denial was unanimous. The second waiver was for Board Regulation # Sect 13, as to creating two lots here. The Chair read the Regulation into the record as to Regulations 13.1.2, and 13.1.3, and 13.1.4, and 13.1.5, with factors to be considered including topo and site features. The Boardmembers had no comments on it, so Ms. English moved to deny granting the second waiver to those Regulation provisions as cited, for Case #21608. Mr. Brown seconded and the vote was unanimous for denial.

Mr. Sharples reminded that Board that it also needed to act on the application. He recommended denial of the application for failure to meet Regulation # 9.17.5. Mr. Brown then moved that the application be denied on that basis, seconded by Mr. Plumer and the vote was unanimous for denial.

C3I, Inc. – PB Case #21609 , Design Review – 12,000 sq. ft. building (office & production space) at 8 Commerce Way.

John Lorden was present representing C3I. He said this is an existing site off Commerce Way, a 6.23 acre lot in the Industrial Zone which has wetlands and Morris Brook runs through it. The applicant was looking for a new location for its business. Looking at 8,000 sq ft footprint but need 12,000 sq ft of useable space. 8,000 sq ft of lower level space and the office space will be a second floor, above the footprint area. He said that there is a well-

used bike trail running through the property and C3I intends to maintain that trail with 7 parking spaces to be built for it, with dedicated signs. There are wetlands and wetland buffers, the applicant is also proposing a crossing over Morris Brook, with StormTech Chambers, with the crossing sited at the brook's narrowest point (4 ft) with the new units being 6 ft wide. There is an open bottom and there is nothing to be disturbed. A truck turnaround is planned with a loading zone. Drainage is gravel wetlands and bio-retention cells, through the driveway, sited above the StormTech Chamber and below the pavement.

Ms. English said that hoped that the Board can work with the applicant on this which looked worthwhile. Impact on wetlands is an issue, would like it worked on a little bit more to get the parking out of the wetlands buffer zones. Don't know if the applicant had designed it for western part of the building to be out of the wetlands buffer. Maybe use both areas?

Mr. Lorden said that there's a knoll up there with enormous boulders there. If the business expands in the future, that's the only place they can do it. Ms. English was still concerned about the wetland buffer.

Mr. Lorden said they had tried several iterations, that they had heard the concerns, the StormTech cell will provide treatment and will do the job very well. Ms. English said that wetlands serve many purposes.

Mr. Sharples gave his views. He said the applicant had wanted to move fairly quickly but this was a non-binding discussion, just getting view of the Board. Mr. Brown agreed on the wetlands issues and parking and was happy with the continued bike trail use. He wondered if there was any way to design truck going around the building. Mr. Lorden responded that it was the boulders issue and limitations on future expansion potential. Deliveries are only 2-3 times a year-very infrequent. The Chair asked about any permanent wetland impacts area? The applicant replied that the total is about 5200 sq ft, and most of that is at the new crossing. Mr. Brown was

also curious about the 8,000 sq ft footprint with an upper level. The applicant responded that this will be a pre-fab building with 23 ft high ceilings. Second floor mezzanine will be for offices. Mr. Plumer asked how this will fit in that area-complimented the applicant trying to use the land as best as it could and also still accommodate future expansion. A crossover plan seemed to him to be a worthwhile technique used in other places. He further stated that the parking is what it is, he was not sure what else could be done with it.

Mr. Clement said that he was somewhat familiar with the site, it's constrained for sure. The large wetlands to the west are larger due to the beaver activity there. A culvert here was installed to relieve the high water from the beaver activity. The applicant has to go to NH DES wetlands to get the permit and to the Conservation Commission here for review as well. The culvert size will have to be worked out, but he encouraged the applicant to be sure the box culvert is, if anything, oversized. It is always a concern to infringe on the buffers, they have many functions. Good engineering can sometimes overcome site issues, such as stormwater.

Mr. Lorden said that the stormwater detention area is mostly forebays. The parking lot drainage is to be split into gravel wetlands and bioretention cells. Mr. Clement said water quality is done better with the gravel wetlands. Wetlands to south should be assessed as to its functionality and the value of it. The bike path access is through there so not sure how pristine it is. Mr. Gold should provide that and it will help. Mr. Plumer suggested thinking about porous pavement at this site, as there won't be a lot of traffic, to just think about it. Mr. Brown asked about landscaping, his preference is to keep it as natural as possible-keep it woodsy and such. Ms. Bergeron said she would like to see a landscaping plan and that visuals are great and an architectural rendering would be helpful. Mr. Clement said that the property is way back in the woods, so lots of landscaping won't benefit the Town or applicant. The Chair said that proposed stormwater looks like the topo flows to the wetlands, can't tell at the beginning of the

driveway, slopes toward the driveway. Mr. Lorden said that the driveway will be built pitched so that the stormwater runs off in the correct direction. Mr. Clement said he understood future potential for expansion, and some businesses have been lost to Exeter that couldn't expand locally. Mr. Brown asked the Planner if it made any sense to design a future expansion and get it approved in this filing-say another 4,000 sq ft, and asked if the applicant would be vested on that? The Planner said yes, he would be vested for 5 years, if not built the project "goes away." After 5 years, if nothing has changed in the regulations, then they can go forward with BP, because site plan approval, but only if no regulation or zoning changes. It would all depend on if the ZBA is involved or not. Discussion on expansion occurred. Mr. Plumer said the applicant playing with the future design might also help them to tweak their current plans.

The Planner said this is only design review, he could schedule a site walk on this. Mr. Clement said typically the Board likes to have some plans before any site walk. Mr. Sharples said it would be after the TRC meeting on this. And he would do it just so the Board doesn't have to renote it. Mr. Plumer said he would like to do it. After discussion on it, the Board concluded to do a site walk on the 25th, in the late afternoon at 5 pm.

4. OTHER BUSINESS:

Continued Work Session – Proposed Amendments to Site Plan & Subdivision Regulations

The Planner said that he hadn't gotten the revisions to the Board for tonight and will get them to them for next time.

5. APPROVAL OF MINUTES: JULY 14, 2016:

There were no member comments, so Mr. Clement moved to approve the Minutes of July 14, 2016 as submitted, seconded by Mr. Plumer, and the Chair abstained due to her absence from that session. The vote was unanimous for approval.

6. TOWN PLANNER'S ITEMS:

Aroma Joe's building is almost all roofed.

CIP is progressing, he will have a draft next week and would move forward after that. It takes two sessions to approve it. The Chair said it takes time to discuss it all during the first session, but the second one goes quickly. The Planner asked if the Board wanted to do it earlier on a regular session night. Mr. Clement said he doesn't like to do that, he would rather have them separate so it gives the Board time to review things and consider them, what to give the most emphasis, etc. Discussion was that first CIP sessions have gone 2.5 hours and he did not want to shortchange the public on it. The Chair said to the Planner that there should be no applications on the agenda that night as it would go too long.

The Master Plan Steering Committee had interviewed all four firms and all came in person and it was impressed with all of them. It was a hard decision but they reconvened last Tuesday and recommended Horsley and Witten Group of Sandwich, MA, which is coincidentally opening an office in Exeter in just a few months. It's a very good firm, whose references were good. He notified everyone today about the decision. Horsley Witten will meet with the Steering Committee soon, at a night meeting, for hashing out process, progress and their fees.

The Master Plan short survey went out, they got lots of responses and looking forward to a lot more. They got many responses in such a short time, which was great. The Chair said he should link the survey to all land use Boardmembers and then they can circulate it more widely. Mr. Sharples agreed.

7. PLANNING BOARD REPRESENTATIVES REPORT ON "OTHER COMMITTEE" ACTIVITY:

The Chair said that the Parks & Recreation plan was for input and it's online and posted at the Rec Dept. The Chair also mentioned that the Northeast Distribution application before the Board recently was turned around in just 30 days, so that's the fastest one yet-good streamlining on it and that is much more effective and applicants appreciate that.

8. ADJOURNMENT:

There being no further business, Mr. Plumer moved to adjourn, seconded by Ms. English and the motion passed unanimously. The session adjourned at 8:30 pm.

Respectfully submitted by David Pancoast, Recording Secretary.