

**PLANNING BOARD
MARCH 9, 2017
DRAFT MINUTES**

1. CALL TO ORDER:

The session was called order by Chair Kelly Bergeron at 7:01 pm.

2. INTRODUCTIONS:

Members present were Nicholas Gray, Alternate Member; Don Clement, Selectmen's Representative; Gwen English; Kelly Bergeron, Chair; Katherine Woolhouse, Vice-Chair; Langdon Plumer; and Aaron Brown. The Chair announced that all would be voting this evening. Staff present were Dave Sharples, Planner; and David Pancoast, Recording Secretary. Members of the public, presenters and consultants were present as well.

3. NEW BUSINESS:

Kerry Wilson/Chris Burke-Planning Board Case #17-12 (tabled from 2/23/17 session). Wetlands Conditional Use Permit ("CUP"), 104 Brentwood Road

Ms. English moved to open the case, seconded by Mr. Clement and the vote was unanimous. No one appeared for the applicant. Ms. English moved to table the case, seconded by Mr. Plumer, unanimously approved.

Tuck Realty Corp.-Planning Board Case #17-15. Design Review-Open Space Subdivision, 98 Linden Street

The Chair announced that this is a design review under NHRSA 676-4, and any comments by the Board are non-binding. Mr. Clement recused himself as an abutter and left the dais.

Jonathan Ring from Jones and Beech Engineering in Stratham appeared with Jonathan Garrity of Tuck Realty Corp. and Attorney Tim Phoenix of Portsmouth. They had modified the plan based on input from Mr. Sharples. They made it just one open space area to make the plan easier to read. [He

passed out smaller versions of the updated plan for the Board's review.] Mr. Ring stated that Linden Street curves around this parcel and the project is also using an existing driveway known as Vintage Drive. The zoning is Residential R-2. The two parcels comprise 11.5 acres total. Two family lot sizes proposed for 2,400 sq ft. The ZBA granted a special exception for this. He went over the display plan, showing 1950 feet of road and 14 lots and duplex units. The plan shows a 60' x 30' footprint for attached 30 x 30 duplexes on each lot that might rotate or shift or change in size, the plan is just to show them. And it shows fencing between this project and abutters, and a house that has to be moved from 98 Linden St.

The other plan sheet is an open space plan, per regulations. Second plan is what they intend to construct. First plan is what could build under current regulations. Second plan shows access road off Linden St, 13 duplex units, still 30' x 30' each, with a driveway and a garage for each. There is also one 'fourplex' unit in front area. There are two single family units. In the Open Space Development plan the access road does not extend from Linden St, it stops at this condominium development. A total of 5.5 acres will be the open space. Have a cul-de-sac at the end of the road which could shrink or become a hammerhead. It's to be a private road, privately maintained. There will be town water and sewer and a detention pond added. The existing house and its barn off Vintage Way would remain.

One of the changes from Planner's comments related to wetlands. There are two on the property, one has more value than the other. Yield plan shows they would affect a wetlands with access roadway at about 2,400 sq ft of impact. Stayed away from impacts on the wetlands of higher value.

Mr. Sharples summarized his memo to the Board/applicant and a copy of the ZBA approval was sent to the Board. Comments offered to the applicant were the two properties had to become single for any open space project. Applicant's Attorney R. Timothy Phoenix disagreed with that and submitted a letter about it, which the Board also got. The fifty foot wide open space

buffer along road was not shown but he is asking Board to determine if that was allowed. The applicant sent a waiver request on it today. The last issue was wetlands crossing-seems possible to relocate the road over between the two wetlands to avoid environmental impacts.

Mr. Brown concurred with Planner's concern about separate ownership of one of the parcels, wants to hear the Attorney Phoenix' opinion on it. Mr. Brown also asked about size of the units in a yield plan as well and the Chair said it related to viable development and Mr. Sharples concurred, as no size is set forth in the regulations.

Mr. Phoenix said he discussed the issues with the Planner and submitted a memo to the Planner. [He submitted it to the Board.]

Two lots in total on yield plan and when done, 13 units on one lot and two units on another lot. The regulations don't state that the yield plan has to have all units on one lot. They protected the same amount of open space. This plan does comply and Special Exception from ZBA and requires no variances. Mr. Sharples has told him he hasn't decided whether he agrees or not. Mr. Phoenix read the Open Space Development Regulation into the record. He explained that his project meets every condition in the Regulations verbatim.

He then raised the other issue of the road location. The issue is that the proposed roadway along the west boundary is within the 50 foot buffer. When it comes to site review, any condition can be waived by the Board for good reasons. Section 11 Open Space Development says that if conditions require it, the situation warrants flexibility. This lot is long and narrow. Their intention, were they to proceed, would be to propose a fence anywhere where the road abuts Exeter Housing Authority ("EHA") property. The EHA property is about 140 ft away, meets intent of the vegetated buffer to housing. A fence is better in winter than a vegetated buffer. Third, a waiver is warranted as to needed flexibility. Mr. Ring then added that

property is only 250-260 ft wide. If moved the road only a 100 ft, the depth on lots and with a 50 ft buffer to rear, it would then be only 25 feet deep for the houses, long and narrow houses are not reasonable for this lot. The lot narrows even more at other end of the lot.

Mr. Sharples added that Section 11.2.8 isn't relevant. A waiver can be requested but has to be under Section 13 'Waivers.' Mr. Phoenix added they don't have 140 ft of width at another location on the site. The same argument still applies under Section 13 of the regulations in his view, if, as here, extraordinary hardship can be shown.

Ms. Bergeron said because the information has been received last minute, she at least needs more time to consider it. Mr. Brown said the waiver is serious and he is not convinced they can't build on this lot without such a waiver. Engineers could rework this to avoid the waiver.

Mr. Sharples added that there shouldn't be any vote on a waiver tonight, should give feedback only. Mr. Plumer expressed confusion over the two original lots. Mr. Ring explained the darker line on his plan shows the original property line. Mr. Plumer said that to get yield plan space, need to use both lots, but then they divide it and a new property line results, thus breaking the combined lot into two. There should still be one lot of land. Mr. Ring explained that combinations and readjustments to result in open space development are permissible. Discussion of what land is needed to meet the yield plan and the open space plan was held. Thirty percent of the overall upland area must be open space. They are proposing 2.5 acres more in this plan than the regulations require.

Mr. Plumer said Exeter Housing was planning to expand their property. Mr. Ring said he wasn't involved but saw their plan. The land was never theirs. They only had an option on it. Mr. Brown followed by asking about Lot 28, Unit #28 would not be subdivide-able. Mr. Ring said they can't subdivide it

further and that would be in the documentation on it. Mr. Phoenix said an association would exist to further meet the intention of the regulations.

Ms. English said the yield plan and buffer make her uncomfortable, agreed with Mr. Brown on it. Narrow lot causes yield plan houses to be squeezed in. She said that Town Counsel should weigh in on this proposal for the Board. If this yield plan was to come forward as a regular plan, recreational component would be required. Open Space might fill that but it's not clear. Would like to see final yield plan show that. Isolated development like this should have family friendly facilities on site. Conceptual open space plan is wetlands buffer right or wrong? Mr. Ring said in Open Space Development, it is 50 ft to a wetlands. Ms. English said she also is not comfortable with a road crossing a wetlands.

Mr. Gray said that his concerns are the road through the 50 foot buffer, he would like to see alternatives. He reiterated Mr. Phoenix's comments about configuration, fences and distance to EHA property. He asked, if there is no proper alternative, what precedent exists for something like this? Ms. English said she's not sure the Board has seen anything like it before and Mr. Plumer agreed. Mr. Sharples said if he had known there was a waiver forthcoming, he would have given the Board parameters for evaluation, etc. He just got this today, but will prepare something for the next meeting. Ms. Bergeron explained that process.

Mr. Gray asked where existing structures would be moved? Mr. Garrity (the developer) said it's only a yield plan so they didn't address that yet. He also said that they referenced the wrong regulations section in their waiver request by mistake. Additional plantings will be shown in the next iteration of yield plan when they come back.

Mr. Gray also discussed parking. Mr. Ring said they showed in concept a 2 parking spaces for each unit. Mr. Sharples said those could easily be met. Mr. Plumer said the whole general area is quite wet, which is already

known from other projects. Mr. Garrity said they hadn't gone into drainage design but are aware of it. He submitted a letter from Gold Environmental for the Board. Ms. Bergeron said she would need more time to review all of that day's submissions.

Public comments:

Miles Felder of Feldman Drive asked whether the buffer zone is part of the open space? Mr. Ring said that buffer is not part of the open space. Mr. Felder said existing buildings are in there. Is it ok to have them within the buffer zone itself? If that is counted as part of the 5.44 acres of open space? Mr. Ring said it is not counted. Portions only of the buffer are part of the open space. Mr. Felder asked if no open space required on Unit 28? Mr. Ring said it's an open question, subject to Board interpretation. Mr. Sharples said he would have to research it. Mr. Ring said Mr. White's house will be removed. Mr. Felder asked who will be responsible for carting for the open space? Mr. Sharples said that Mr. Winter's lot would not be part of the open space development. Mr. Ring said it would be figured out. There was discussion on who would be responsible for zoning violations.

Mr. Garrity said he spoke with Doug Eastman, Code Enforcement Officer, about violations on either parcel and he was told there are none.

Don Clement, 5 Feldman Drive, a butter spoke and said that the goal of a yield plan is to get to a final development figure for open space planning. It's a tool to get to an open space plan. Article 7 of Zoning is to encourage flexibility to conserve open space and to promote conservation of open space and harmony of land use and protection. Diversity of housing is to be provided. Other aspects of the Article don't meet open space development requirements. Area needs to be of special value. The intent is to preserve those areas of highest ecological value. It's really a poor drainage area here. And lastly a contiguous corridor of open space is the intent which is also not met here. This yield plan is imaginative. Comments about road in buffer is

not in spirit of buffer definition in regulations. A “natural vegetated strip” is the intent of a buffer. A road doesn’t qualify as that. It’s supposed to be a buffer from neighbors, but this is not-this area is compromised. He said he is sure the Board will do a site walk there. There are extensive wetlands with very poor drainage-it’s very problematic to get a house in on Lot 9 there. This plan as to Unit #28 to be broken off as a fee simple lot of land isn’t in the spirit of the regulations. The area of Unit 28 was used in the calculations of area to get the 14 lots, then it is intended to be cut out after open space development. How can it be used for density if it’s not included as part of the open space parcel?

Open Space Plan component includes a detention pond in the open space. That’s a structure and violates the spirit of the Open Space Regulations. The proposed units are also right up against the 50 ft open space vegetated buffer. That will be violated over time. Separation of lots after combining them in open space calculations is a dangerous precedent. Any single group of several owners might do a similar thing and then just keep their lots. Drainage in this area is a big issue. It will impede existing houses and these proposed units too.

Gary Morrisette of 102 Linden Street said his brother and he own from Linden St through Patricia Avenue. Their driveway is about 750 feet long. He is going to be impacted a lot from this project. He showed pictures to the Board. [He then gave a detailed explanation about his water problems there.] Water runoff is a problem. He doesn’t think they can build this development and still contain the water. Once trees are cut, drainage will be affected. Density from Mr. Winter’s land added in to make this work doesn’t seem right. There is a pipe marker separating his property from Winter but it disappeared. He works out of his property. He wants a fence too. Who will replace the proposed fence? Drainage is an issue. Once a stormwater plan is approved, will the developer guarantee it? Who can prove there won’t be further impacts? Most water goes to the southeast side, toward him. Exeter Housing wanted to put in a larger culvert, but the

Morrisettes didn't want it-didn't want any more water. Little kids appear in the road to his masonry business, which uses trucks. Don't want any more water. His pictures from 1986 speak for themselves.

Ms. Deborah Morrisette spoke-prior project was getting a 90 ft lot line adjustment. Fifty foot buffer is on edge of their right of way. Picnic tables and swing sets will be right there. Has problem with use of Winter property for this. There will be too much water resulting from this project.

Nick Morrisette, of 102 Linden Street said this development will be on the wettest property-one plan shows more wetlands than the other. Deborah Morrisette added the Exeter Housing plan showed more wetlands than this plan does. She encouraged plan comparison and a Board site walk.

Sandy Courtland, of Thelma Drive, said her property is hammered by water. Back corner of her property has a ponded area that is stagnant. She made references to the wetness of those areas. Can't cut grass until hot and dry for a week. She had her driveway redone to try to solve the problem. She has been on Thelma Drive for 22 years, doesn't remember water problems like this. This area is too wet for this proposal.

Mr. Morrisette added that conservation land is being lost with all the new developments. Deer use this area as a "yarding" area. Wintergreen plants sustain the deer. If leaving only a small area as a conservation area, it won't have deer, only squirrels, thus losing another wildlife area. He spoke about surrounding area with lots of houses. The developer can't buy this land without being able to do this development. They are trying to do too much. Lots of developments in Town didn't turn out very well.

There were no further public comments.

Mr. Plumer said he wanted to see more abutting property on the bottom of the plan-needs the big picture on this. The Board discussed a site walk but decided to await formal submittal of the project.

Ms. Bergeron said the plan needs more inclusion of southerly abutter parcels. Drainage needs to be shown on the plan next time. Shifting the road outside the buffer should be shown as another option. If there is a buffer zone they need to adhere to, show it on the plan. She said she would like to see a recreational area on the plan next time.

Mr. Garrity asked for continuance for more details to the next available meeting. The Chair said a deadline of next Wednesday of this coming week is necessary to make their next session. Lastly, Ms. Woolhouse asked how ZBA came up with Lot # 28? Mr. Garrity said the ZBA put a limit of 28 maximum units as a cap. Mr. Sharples said use as duplexes was a ZBA-only decision, for use only, but the Planning Board determines the density.

This matter was tabled by the Chair to the March 23, 2017 session.
[Mr. Clement stepped back up to the Board.]

4. OTHER BUSINESS:

Exeter Sportsman's Club – Planning Board Case #17-14. Proposed construction for extension of existing backstop & berm, additional shed structure (shoot-house) & lighting - 111 Portsmouth Avenue.

Ms. English moved to open the case, Mr. Plumer seconded, and the vote was unanimous. Mr. Sharples said this was rescheduled for necessary information, including abutter notifications. Latest lease required Board review. Mr. Eastman and he had visited the site to understand the site and this proposal. Might be beneficial for the Board to visit the site as well.

Tim Copeland, President of Exeter Sportsman's Club, said this was to build a small shoot-house. He explained their needs in this project. Historically this

was a trap shooting field area for years. They suspended that and turned it into an archery range, which is already there-this is an extension of that.

Ms. English asked about projectiles in shooting. Mr. Copeland said some are lead, some are plastic, some steel. Ms. English asked about what happens to the lead projectiles? Mr. Copeland asked what that has to do with the proposal? She said that it does relate, due to how they get in there to clean up the lead? Mr. Copeland said that it's pristine, some lead is allowed in EPA regs. Goes by when it's cost effective as to when to remove it. There is an access construction road behind this berm. Burrell York, Past President of Exeter Sportsman Club, added they are engaging UNH to look into it as they don't know how much lead is in there. There are a number of monitoring wells on site which will show contamination if there is any. They will know in 6-8 months when the study is completed. Mr. York said there is an environmental stewardship plan in place here, as required. They must determine how much lead goes into the backstop each year. They are trying to come up with a baseline study of how much lead is there, so they can decide when to take it out.

Mr. Copeland said the monitoring wells will show if any lead before it hits the reservoir. Ms. English said just wants to know what's being done before it gets offsite. It's a potentially harmful substance. Will the shoot-house be the same as the others? Mr. York said it has to be open in front and back, but enclosed sides so can get into it with any equipment needed.

Ms. Bergeron said berm on plan is being extended, but asked why they need a new shoot-house? Mr. Copeland said need a barrier to archery uses. Shoot house is for protection from elements. They want to contain some of the sound even though not shooting shotguns there anymore.

Ms. Woolhouse asked about a lighting aspect to this. Mr. Copeland said they came previously for lighting to 7:30 pm for shooting during darker times of day, but this includes lighting too. Lights are to see for walking

mostly but also for shooting. Currently main range is lit but not the rest. The lighting is also for safety. There are no paved areas on this site. They won't bring any more soil in. Mr. Plumer said he needs to see it and have a site walk. He needs and wants a larger plan for perspective on this project.

Mr. Clement asked about use of materials onsite to construct the berm. Phase I remedial action plan was done. Lots of lead there. There has been talk of a Phase II remedial action plan. If using onsite soil, shouldn't DES be involved since they were instrumental in the other clean ups? Mr. York explained the background. NH DES was a proponent of how they did the construction and removal from the site. They used it in the berm. Mr. Clement then asked why another shoot-house is needed there? Mr. Copeland said they do a lot of training for leagues, boy scouts and others. Need another area so members aren't inconvenienced. He said all groups are under supervision. Ranges are 25 ft, 50 ft or 100 ft, with solid blocks back there. Not going to disturb any soil to rear there.

Mr. Plumer asked how many folks can shoot? Mr. Copeland said only 6-all must shoot at the same range distance and it's controlled by time limits. Safety is their number one concern.

Mr. Gray said the proposed modifications seem somewhat minor-benefits would result. Mr. Copeland agreed. Mr. Clement asked about the existing shoot-house. Mr. Copeland said one is enclosed on three sides for better attenuation of sound. Mr. York said they can't enclose this one more and service the backstop too. Mr. Copeland said in the future they might add a soft curtain to better attenuate sound there. They have their own sound test equipment for neighborhood noise checks and they do them.

Ms. Bergeron said a letter about noise was received so she is glad they test for noise in the neighborhood. She asked if any members wanted to go for a site walk. Mr. Copeland said could do every Wed 9 am to 12 noon, or it could go as a group. Mr. Brown asked if a site walk would delay this and Mr.

Copeland said no, not until spring breaks. Ms. Bergeron said she would like to go see it. Mr. Copeland said they had an engineer do a layout there so the Board can see that now.

Public Comments:

Murray Movich of 2 Windemere Lane, Vice President of the Homeowners' Association there and involved in the Shooting Club, opposed this new project for too much additional noise and contaminants with possible leaching into the ground and water supply. The existing berm to attenuate sound doesn't work. He urged the rejection of this proposal by the Board and asked that this proposal be reviewed by the Selectmen.

Len Benjamin of 8 Windemere Lane said the location of the proposed new berm is unclear. [The applicant showed him on their map.] The new proposed shoot-house is closer to neighborhood than existing ones. Professional sound folks hired by the neighborhood said there is no sound attenuation there. Other neighborhoods are also affected. This will be a negative effect on the neighborhood. Prospective home buyers have walked away. Mr. Benjamin said they have enough facilities now. Mr. York said that a point of order is that Town attorney has advised that the Planning Board cannot make a decision based upon sound. It can listen to the input, but can't decide it based on that element.

Ms. Beth Brosnan of 12 Robins Lane across from the reservoir and the club. She understand what Mr. York said, but concerned about 2012 to 2014 discussions about attenuation of noise there, under the lease. The berm that was settled on was constructed in summer of 2014-with sound testing before and after the berm was conducted. Report was that significant reduction of sound occurred, but for some types there was no reduction. Discussion on board not being able to consider sound. New shoot-house will be closer to her neighborhood with less berming. Shooting 6 days/week to 7:30 pm. Shooting will increase but attenuation of sound problems won't

occur. In 2012 they committed to a reduction of sound by 10 decibels, but nothing happened. They need to take more steps to attenuate the sound.

Mr. Benjamin of 8 Windemere then said the welfare of the community is adversely affected by an additional shoot-house that is closer to houses.

There were no more public comments.

Discussion concluded that a sitewalk just prior to the next session would be conducted on Thursday, 3/23/17, at 5 pm. Mr. Sharples will notice it as required. This matter was continued to the 3/23/17 session without a vote.

5. TOWN PLANNER'S ITEMS:

Field Modifications:

Mr. Sharples said one MFM occurred. At C3I on 8 Commerce Way found an unexpected drainage pipe to property across the way. Old drive pipe, cleaned up, blocked and capped.

Announcements:

NH OEP Spring Conference-Saturday 4/29/17 (register on NH OEP Website)

This is a great conference to attend. Bill the Town when you sign up.

The Master Plan Steering Committee met this morning and the Consultants gave a summary of the 1/25/17 workshop, which was a good workshop. They also got the draft outline for the Master Plan. It's a good call to action overall. Initial draft was well received. He will send the Board those materials when he gets them. He said the IT folks mistakenly came too late to televise the session so he did a highlight email which he will send as well.

6. APPROVAL OF MINUTES: JANUARY 12, 2017 AND FEBRUARY 23, 2017

After deliberation and discussion of corrections and edits to the draft minutes of 1/12/17, and then of 2/23/17, Mr. Plumer moved the approval

of the individual drafts as specifically corrected, seconded by Ms. English and both were unanimously approved.

Tabling of Case #17-12:

Mr. Sharple suggested they table that matter to 3/23/17 or they would have to renotice it. Mr. Clement said this was an after the fact disturbance of buffer, can't list conditions or just have it fixed without an approved Conditional Use Permit. Mr. Clement said that if they are not coming back to the Board, then the Board has to deny it and the Code Enforcement Officer will act on it. Letting them know that will get them to act. Mr. Plumer moved to table Case #17-12 to 3/23/17, Mr. Clement seconded and it was unanimously approved.

7. PLANNING BOARD MEMBER REPORT ON "OTHER COMMITTEE" ACTIVITY.

Ms. Woolhouse reported that last night there was a meeting on MS4 and Stormwater. Exeter is behind the times on its stormwater progress. Mr. Sharples said the MS4 Permit did issue. Mr. Clement said it's not effective until June, so the Town has three months to submit a notice of intent to follow it. The Board should create a stormwater ordinance. Mr. Sharples said that MS4 Permit encompasses a lot of things. DPW wants to get the whole overview before the Selectmen, one component of which is the need for a Stormwater Ordinance to be approved by the Board. Wright Pierce will come to the Planning Board to do just a Stormwater Ordinance update.

8. ADJOURNMENT:

There being no further business before the Board, Mr. Plumer moved adjournment, Ms. Bergeron seconded, and it was unanimously voted. The Chair adjourned the session at 10:04 pm.

Respectfully submitted by David Pancoast, Recording Secretary.