

**TOWN OF EXETER
PLANNING BOARD
February 11, 2021
VIRTUAL MEETING
DRAFT MINUTES**

Zoom ID: 86024856182

Phone: 1 646 558 8656

I. PRELIMINARIES:

BOARD MEMBERS PRESENT BY ROLL CALL: Chair Langdon Plumer, Vice-Chair Brown, Pete Cameron, Clerk, Gwen English, John Grueter, Jennifer Martel, Molly Cowan, Select Board Representative, Nancy Belanger, Alternate, Mark Dettore, Alternate, Pete Steckler, Alternate and Robin Tyner, Alternate.

STAFF PRESENT: Town Planner Dave Sharples

II. CALL TO ORDER: Chair Plumer called the meeting to order at 7:00 PM. Chair Plumer read out loud the meeting preamble which indicated that an emergency exists and the provisions of RSA 91-A:2 III (b) are being invoked. As federal, state and local officials have determined gatherings of ten or more people pose a substantial risk to the community and the meeting imperative to the continued operation of Town and government and services which are vital to public, health, safety and confidence. This meeting will be conducted without a quorum physically present in the same location and welcome members of the public accessing the meeting remotely.

The members introduced themselves by roll call and in accordance with the Right to Know Law noted they were alone in the room.

III. OLD BUSINESS

APPROVAL OF MINUTES

January 28, 2021

Mr. Grueter motioned to approve the January 28, 2021 Meeting Minutes. Ms. English seconded the motion. A roll call vote was taken Brown – aye, Cameron – aye, Cowan – aye, English – aye, Martel – aye, Grueter – aye and Plumer – aye. The motion passed 7-0-0.

IV. NEW BUSINESS

PUBLIC HEARINGS

41 1. Continued discussion on the application of Brian Griset for review of a Yield Plan in
42 conjunction with a proposed single-family condominium open space development and
43 associated site improvements on property located off Tamarind Lane and Cullen Way. The
44 properties are located in the R-1, Low Density Residential and NP-Neighborhood Professional
45 zoning districts.

46 Tax Map Parcel S #96-15 and #81-53
47 Planning Board Case #20-2

48
49 Chair Plumer read the Public Hearing Notice out loud and noted the hearing was continued at
50 the last meeting.

51
52 Mr. Sharples noted that additional information has been received and questioned whether the
53 Chair would like to reopen the hearing to the public to accept the documents.

54
55 Chair Plumer reopened the hearing to the public at 7:06 PM.

56
57 Mr. Sharples was asked to present the information he shared at the Master Plan Oversight
58 Committee meeting which, while it is not related specifically to this hearing tonight, explains
59 why a Yield Plan is needed.

60
61 Mr. Sharples posted comparisons of a grid pattern on the left which was an example of a
62 conventional subdivision and a group of circles on the right which was an example of an open
63 space subdivision. Mr. Sharples noted both had 32-units, but clusters have some advantages
64 over a conventional subdivision. The conventional subdivision shown on the left disturbs the
65 entire parcel. The open space subdivision groups homes together and provides a lot of
66 advantages such as vegetation, leaving trees intact, less impact of surface areas, few
67 environmental impacts. With a conventional subdivision there is more road and frontage. With
68 cluster. the lack of environmental disturbances can mean better air and water quality and lower
69 construction costs and lower long-term maintenance costs for the Town. For example a 1200'
70 roadway would be a 600' roadway with half of the sanding, salting and plowing expense and
71 restoration costs. What would have been a two-million-dollar restoration is a one-million-
72 dollar restoration. Lowered restoration costs means less tax burden on the community and
73 open space subdivision often adds outdoor recreation opportunities and protected and
74 preserved areas through HOA documents recorded at the Registry of Deeds.

75
76 Mr. Sharples indicated that Yield Plan information addresses feasibility under a conventional
77 design to determine density. For the Board to ask if they would approve this plan if it was a
78 conventional design would require much more information. A lot more information would be
79 required to approve an actual subdivision plan. A Yield Plan often utilizes a mathematical

80 formula. One example is a 10-acre parcel. When you factor in the roads and utilities an acre is
81 subtracted and so on. The net result is divided.

82

83 Mr. Grueter asked if a single-family condominium project where all the land is owned together
84 is different and Mr. Sharples noted there are two lots here, one with condominiums and one
85 open space. There are no open spaces in a conventional subdivision. A conventional
86 subdivision uses every inch for the lot. The purpose of the Yield Plan is to show density.

87

88 Chair Plumer asked about an existing structure and Mr. Sharples noted that unit cannot be
89 transferred it would mean one less unit.

90

91 Attorney Justin Pasay noted Mr. Griset and Christian Smith were present at his office with him
92 on the Zoom call and Jim Gove was participating remotely. Attorney Pasay posted the plan and
93 identified the make-up of the 64-acres which are comprised of the 31-Acre Mendez Trust
94 property, the 23.5-acre Griset property shown on the left and the recreational space conveyed
95 to the Town shown on the top part of the plan.

96

97 Attorney Pasay stated that the Mendez Trust property was to be conveyed to the Town and the
98 Conservation Commission voted favorably on this point a year ago. 50 Acres would be
99 permanently preserved. On December 4, 2020 he provided an overview of the process. A
100 waiver request from 7.13 was submitted because the regulation states that Yield Plans can't
101 require variances. On January 28, 2021 there was a new analysis provided by Mr. Keach, an
102 engineer from Bedford, NH with new wetland concerns which Mr. Gove addressed in his
103 February 3, 2021 letter. Mr. Gove will summarize his letter. Christian Smith will provide
104 additional analysis concerning the flood plan.

105

106 Attorney Pasay stated that he felt Mr. Keach's opinion is inconsistent with the regulations of
107 the Town of Exeter. The applicant already has a Special Exception and a Variance and there
108 have been no violations of Town regulations identified.

109

110 Attorney Pasay noted he believes the waiver from Section 7.13 should be granted. The purpose
111 of the regulation is to prohibit a Yield Plan that would require a variance not a Yield Plan that
112 had already obtained relief from the ZBA to be used in this open space subdivision.

113

114 Attorney Pasay noted that the January filing contained critical information. The Gove Real
115 Estate market analysis entailed 12 months of sales in the Town of Exeter and assigns values to
116 Lots 5 and 6 with the long, shared driveway of \$185,000 each. These two lots are located close
117 to the rail area. The more attractive lots would be valued at \$250,000.

118

119 Attorney Pasay noted the February 3rd Gove letter deals with the three wetland impacts
120 permittable by NH DES.

121

122 Mr. Gove noted the first impact is the Griset property, Wild Apple Lane impact following the
123 ROW and existing road. The impacts have already occurred in that area in order to access the
124 upland. The Wetland Bureau prefers developers utilize an already impacted area rather than
125 those that haven't yet been. This impact is 2,712 SF.

126

127 Mr. Gove noted the second impact area is shown on the lower left of the plan with an upland
128 having the narrowest crossing point to get access to the upland. The Wetlands Bureau
129 absolutely will permit a crossing to get to a viable upland area that can be built upon. This is
130 another small impact of 2,025 SF. The dual driveway utilized by the two lots is also promoted
131 by the Wetlands Bureau as a good measure.

132

133 Mr. Gove addressed the third and largest impact area of 7,430 SF shown on the upper right of
134 the plan. This area has already been impacted in the past, was already graded and there is
135 evidence there was going to be a road built and it is mowed at this point in time. As this area is
136 already impacted by man it is a viable access, minor in terms of the Wetland's Bureau and an
137 area they would want the applicant to use. Mr. Gove noted he believed the permits would be
138 obtained from the State.

139

140 Christian Smith noted the Yield Plan relies on the conventional subdivision standards only. The
141 site plan, briefly referenced earlier, is not something you judge a Yield Plan from. The Griset
142 23.6-acre parcel would be divided by 30,000 SF and result in 34 units. The NP zoning results in
143 17 residential units for the Mendez property. There would be a total of 90 potential units. The
144 Board approved 12 units. 17 units is a reasonable number. The building sites are highlighted in
145 red hatch and will exceed the 25'x25' building box.

146

147 Mr. Smith noted an issue of unsafe roads was raised which the ZBA determined was a non-
148 issue. The Town regulations require connectivity to adjacent parcels as part of the
149 development. The 200' frontage allows the additional lot plus the continuation of Cullen Way
150 to the Mendez property leaving 50' for an additional lot and 50' ROW.

151

152 Mr. Smith noted homeowners that put homes on a site where future extensions are planned
153 certainly have no right to expect there would be no additional development or traffic, which
154 will be minimal. The 28' wide road is 4' wider than the Town standard and meets all safety and
155 design standards and both streets have sidewalks.

156

157 Mr. Smith noted the flood plain impacts posed by Lots 4, 5 and 6. There will be encroachment.
158 Section 9.4.2 of the ordinance prohibits any development that would elevate the 100-year flood

159 elevation of a foot or more. The calculations made by Mr. Smith show an elevation of .14
160 inches. 17 units on 63 acres is reasonable, feasible and viable.

161

162 Attorney Pasay noted the State's 2019 spreadsheet tool uses the municipality and acreage to
163 provide a value of impacts of 10,000 SF or more to the ARM fund which he calculated would be
164 \$68,000 for such an impact in Exeter.

165

166 Peter Lennon of 20 Cullen Way noted he was opposed to the latest Yield Plan and noted
167 consideration of the Yield Plan is different than consideration of a Site Plan. Mr. Lennon
168 objected that Attorney Pasay introduced a conceptual Site Plan at the start of the meeting to
169 attempt to influence the Planning Board about the design of the project after getting past the
170 Yield Plan. The owners have been told that a Site Plan can change overnight, the same as a
171 Yield Plan. There is no assurance it will be the same when submitted.

172

173 Mr. Lennon referenced the reservations of Mr. Keach an engineer from Bedford, NH and noted
174 single family homes often have attached garages and decks and the building boxes were
175 smaller than most if not all of the Cullen neighborhood.

176

177 Susan Desjardins of 20 Cullen Way asked that the letter signed by 41 homeowners in 21
178 residences dated January 26, 2021 be included in the record raising strong objections to
179 Planning Board Case #20-1 and the 12 houses approved last year. The new plan envisions 17
180 homes and longer access roads intruding into the wetlands and taxes the low-density zoning in
181 the R-1 district. The neighborhood is heavily used by pedestrians. Ms. Desjardins expressed
182 concerns that the Yield Plan relies on a density transfer granted by the ZBA who lacks authority
183 to do so. The 1991 agreement is a 30-year agreement with outdated conditions. There have
184 been failed negotiations with the homeowners to reduce impacts to the neighborhood.

185

186 Mark Paige compared Vanilla Ice cream to Rocky Road and referenced the Town Engineer's
187 letter concerning the building envelope contained in the Board's packets. The Engineer stated
188 originally that the lots were not buildable then changed the term buildable to desirable. There
189 are no Town regulations concerning the minimum building envelope similar to Rose Farm and
190 this should be treated as a case-by-case basis.

191

192 Lisa Bleicken referenced the letter submitted at the last meeting on January 28th and concerns
193 that she believes the Transfer of Density must be adopted at Town Meeting and concerns with
194 the flood zone and prime wetland and flood insurance costs. The Natural Resources Inventory
195 map shows the parcels as not suitable due to wetland setbacks and shoreland protection and
196 prime wetlands which serve great function and value. Construction costs are high and have the
197 lowest retail value in the Town's most valued wetlands.

198

199 Neil Bleicken of 11 Tamarind Lane referenced the letter of Mr. Keach submitted at the January
200 28, 2021 hearing and three points raised in the letter. Bullet item #2 and that the creation of
201 the five lots would not be reasonably achieved under a subdivision proposal or satisfy Section
202 7.7.1 of the zoning ordinance. Bullet item #4 and the overutilization and crowding of upland,
203 the buffering of adjacent neighborhoods and more development that can be supported and
204 Article 1, Section 1.2 and Open Space 7, Section 7.2. Mr. Bleicken noted he was strongly
205 opposed to the Yield Plan.

206
207 Patrick Flaherty of 8 Tamarind Lane noted he was the most impacted and voiced support and
208 will continue to do so, stating the reason is the inclusion of the Mendez Trust property which
209 gives certainty with what will happen with that property and no additional traffic being pushed
210 down the street as a result of developing it.

211
212 Attorney Pasay noted the Site Plan depicted is substantially similar to that which was filed with
213 the Planning Board and reviewed by the TRC, presented to the Planning Board in 2019. With
214 regard to the 25'x25' envelope the Yield Plan depicted hatched red areas. The small squares
215 are 25'x25' which is the standard applied by the Town in other open space developments.
216 None of these building envelopes are 25'x25.' Lot 13 is 30'x55' which is 1,650 SF of buildable
217 area and larger than required. The smallest is larger than required for Exeter Green.

218
219 Attorney Pasay addressed engineer Keach's letter which provides a broad consensus, and not
220 from Exeter's regulations. Mr. Keach is not a wetland scientist. This Yield Plan is the second
221 iteration not the third and different than submitted to the ZBA. Attorney Pasay posted the
222 Yield Plan dated 8/21/19 and the Yield Plan dated 2/2021 showing the five lots – 15, 16, 17, 5
223 and 6. After review the Planning Board removed Lot 5. The Yield Plan the ZBA reviewed is
224 identical to the Yield Plan before the Planning Board now.

225
226 Attorney Pasay stated the analysis of the Town Engineer as "not desirable" is compared by the
227 expert analysis of the Gove Group Real Estate analysis dated January 15, 2021 which values the
228 lots in question at \$185,000 each. The Town Engineer's opinion is not as persuasive as the
229 realtor's. Today lots go for a higher value even with long, shared driveways with an odd shape.

230
231 Attorney Pasay stated the ZBA's decision was ignored, not appealed and the opposition has no
232 standing with regard to the 30-year-old contract.

233
234 Attorney Pasay stated the repeated statement that the ZBA transferred density in this record
235 was addressed by the proprietor of the legislation, Ben Frost. This is not a density transfer and
236 is common in open space developments happening in Exeter most recently in Rose Farm.

237
238 Chair Plumer closed the hearing to the public at 8:55 PM for deliberations.

239 Vice-Chair Brown considered whether the waiver was necessary and acknowledged the Board
240 voted last May to require the applicant to submit the waiver request but after researching the
241 matter himself finds it to be more common than not.

242
243 Attorney Pasay stated the variance relief is a constitutional safety valve. A variance was
244 obtained and not appealed. The waiver criteria is similar to the variance criteria. Section 7.13
245 means that a Yield Plan shall not require a variance, that you cannot show up to the Planning
246 Board with a Yield Plan that violates the zoning ordinance. It is the same as anyone doesn't
247 need it because we have it. The waiver criteria mirrors the variance criteria. Other R-1 lots are
248 similar. Brian White the appraiser stated there is no negative impact to surrounding properties.
249 The property is unique in that it is one of the largest left in Exeter and also a large 30-acre
250 parcel with no frontage, large, and landlocked except for the ROW through Brickyard
251 Condominium. There is a large amount of wetlands and upland area. Denial would deprive the
252 applicant of the right afforded to him under the variance. Mr. Gove has testified that it will not
253 alter the essential character of the neighborhood or threaten the health, safety or welfare. R-1
254 lots are consistent with the character of this neighborhood. It will not vary the conditions of
255 the zoning ordinance or the Master plan. The Master Plan references this area as a rural
256 transitional residential area. The plan does not need a variance because it already has one and
257 the criteria used to grant that variance is similar to that used to get the variance.

258
259 Mr. Cameron expressed concerns with impacts on the existing neighborhood during and after
260 construction.

261
262 Mr. Cameron asked Vice-Chair Brown the impact to the applicant if the waiver were denied and
263 Vice-Chair Brown opined there would be serious consequences to the applicant if the waiver
264 were denied.

265
266 Ms. Martel noted she did not recall the discussion centered around the vote in May but has
267 also been researching this herself and tends to agree with Vice-Chair Brown that it is redundant
268 and wonders if the Board should revote.

269
270 Chair Plumer asked Mr. Sharples, the Town Planner, the impact if the waiver were not
271 approved and Mr. Sharples noted because a Yield Plan received a variance it would immediately
272 follow that you cannot accept a plan that has a variance.

273
274 Vice-Chair Brown noted he would favor granting the waiver if it moves forward.

275
276 Mr. Cameron questioned the Section noted on the draft motion, Section 9.6.1.2 and Mr.
277 Sharples noted it was a misprint.

278

279 **Mr. Cameron after reviewing the criteria of Section 13.7 for granting waivers moves that the**
280 **application of Brian Griset, Planning Board Case #20-2 for a waiver from the regulation that**
281 **requires a Yield Plan not require a variance from the existing zoning ordinance, be approved.**
282

283 Mr. Cameron asked if there were conditions and Mr. Sharples noted none.
284

285 **Mr. Grueter seconded the motion. A roll call vote was taken Cameron – aye, Cowan – aye,**
286 **Martel – aye, Grueter – aye, English – aye, Brown – aye and Plumer – aye. The motion passed**
287 **7-0-0.**
288

289 Vice-Chair Brown stated that the ZBA has weighed in on the transfer of density issue and the
290 Board’s hands are tied. The Master Plan Oversight Committee promotes open space
291 developments that invoke the Yield Plan process and are of the type our citizens say they want.
292 Conflicting engineering opinions and abutter weigh in are common in these applications. Mr.
293 Brown stated he is in the real estate industry and it is said “if you don’t own the view you can’t
294 guarantee the view.” When buying property near an undeveloped land buyers should be on
295 alert that something can happen that might not be appreciated, but that person still has
296 property rights. In this case the property is definitely developable. It is a matter of how many
297 units.
298

299 Ms. Martel thanked Attorney Pasay for providing the market research and updated costs
300 because current construction costs have been crazy.
301

302 Chair Plumer noted he appreciated the public input portion of the process.
303

304 Ms. English echoed Mr. Cameron’s concerns about impact to the neighborhood during and
305 after construction and urged the developer to communicate with the neighbors being impacted
306 as a result. Ms. English noted she would keep what would happen with the Mendez property as
307 Mr. Flaherty stated in mind.
308

309 Ms. English stated concerns about putting a stamp of approval on a driveway that could be
310 flooded to Lots 5 and 6 but did not know that she would deny the plan because of it but would
311 feel more comfortable if those lots were to go away.
312

313 **Mr. Grueter motioned to approve the Yield Plan of Brian Griset, Planning Board Case #20-2 for**
314 **the 17-unit open space development. Ms. Martel seconded the motion.**
315

316 Chair Plumer noted no conditions of approval.
317

318 ***A roll call vote was taken Brown – aye Cowan – nay, English – aye, Martel – aye, Grueter –***
319 ***aye, Cameron – aye and Plumer – aye. The motion passed 6-1-0.***

320

321 **V. OTHER BUSINESS**

322

323 **VI. TOWN PLANNER'S ITEMS**

324 Mr. Sharples recommended the Board designate the Town Planner as its agent to sign off on
325 performance guarantees for Site Plan Regulations for a reduction or release. The language of
326 the section states "The Board or its agent." Mr. Sharples will ask Ms. McEvoy to make this a
327 regular agenda item and report to the Board on any reductions or releases. Chair Plumer
328 referenced an issue with a parcel on Captain's Way where the pavement was not put in right
329 and directed that in a case it is his expectation that it be brought to the Board's attention. Mr.
330 Sharples stated that if the staff is not comfortable they would bring the release or reduction to
331 the Board.

332 Mr. Sharples noted he had a minor field modification on the dental office on Wayside, off
333 Hampton where a 24" Oak tree was leaning over the building and after extensive limbing
334 attempts needed to be replaced with a 2.5" caliper Oak tree approximately 8'-12" in height.

335 **VII. CHAIRPERSON'S ITEMS**

336 **VIII. PB REPRESENTATIVE'S REPORT ON "OTHER COMMITTEE ACTIVITY"**

337 **IX. NON-PUBLIC SESSION PURSUANT TO NH RSA 91-A:3(II)I) (consideration of legal advice)**

338 ***Mr. Brown motioned to go into non-public session pursuant to NH RSA 91-A:3(II)I)***
339 ***consideration of legal advice. Mr. Cameron seconded the motion. A roll call vote was taken***
340 ***Grueter – aye, Martel – aye, English – aye, Cowan – aye, Cameron – aye, Brown – aye and***
341 ***Plumer – aye. The motion passed 7-0-0.***

342 Mr. Sharples indicated to Exeter TV that the Board would exit but not end the virtual meeting
343 and sign onto a separate virtual meeting and then return to adjourn and seal the minutes in
344 public session.

345 The meeting was closed to the public at 7:23 PM.

346 ***Vice-Chair Brown motioned to come out of non-public session and seal the non-public meeting***
347 ***minutes indefinitely. Mr. Cameron seconded the motion. A roll call vote was taken Cowan –***
348 ***aye, Cameron – aye, Brown – aye, Grueter – aye, Martel – aye English – aye and Plumer – aye.***
349 ***The motion passed 7-0-0.***

350 The meeting was reopened to the public at 7:53 PM.

351

352 **X. ADJOURN**

353 ***Vice-Chair Brown motioned to adjourn the meeting. Chair Plumer seconded the motion. A***
354 ***vote was taken, all were in favor, the motion passed unanimously. The meeting adjourned at***
355 ***9:39 PM.***

356
357 Respectfully submitted,

358 Daniel Hoijer,
359 Recording Secretary