

EXETER ZONING BOARD OF ADJUSTMENT
April 19, 2016 MEETING MINUTES

PRESENT:

Regular Members: Rick Thielbar, Laura Davies, Robert Prior, John Hauschildt, and Kevin Baum
Deputy Code Enforcer: Barbara McEnvoy
Building Inspector/Code Enforcement Officer: Doug Eastman

The meeting was convened at 7:00 PM. Chair Thielbar introduced the Board members and explained the protocol for the meeting.

AGENDA:

1. Case #1506: Special Exception – Town of Exeter Housing Authority
2. Case #1507: Amendment to a Variance – 2 Hampton Road LLC

New Business:

1) The application of Town of Exeter Housing Authority for a special exception per Article 4, Section 4.2, Schedule I Permitted Uses to permit the proposed construction of a multi-family open space development on the property located at 98 Linden Street. The subject property is situated in the R-2, Single Family Residential zoning district. Tax Map Parcel #104-70. Case #1506.

Sharon Somers, of DTC, PLLC, spoke to represent the Exeter Housing Authority (EHA). She said her clients are proposing to construct 20 multi-family units which will consist of 1 and 2 bedroom units. This property lies adjacent to the existing Linden Fields which is operated by the EHA. If this application passes tonight, she said they would go to Planning Board for a lot line adjustment and site approval to construct the project. This project would be similar to Linden Fields. They have begun exploring a drainage issue that they have come across.

Tony Texiera, Executive Director of the Exeter Housing Authority, said the EHA's mission is to provide safe and affordable housing. He said they take great pride in being a good neighbor. The applicants do undergo a screening process that is regulated by the Department of Housing. He said there are 300 applicants currently on the waiting list. The proposed project abuts the Linden Fields apartments. He said they are planning on building a community room with laundry and storage at the new project. He believes there continues to be a need for affordable housing.

Ray Shea, of Sandford Surveying, gave an overview of the project. He said the existing Linden Fields is to the north of the proposed project. Linden Fields has three buildings with five units in each. This project proposes a lot line adjustment between the two properties to make the existing project 1.5 acres smaller and the proposed project 1.5 acres larger. The proposed project will consist of an eight unit building and two six unit buildings. The proposed project is serviced by municipal sewer and water. The Linden Fields project is accessed by a sewer line that comes in from Linden Street and the proposed project would tie into that. The proposed project is a fairly flat piece of property. There are wetlands to the east. They have discussed drainage issues that arise during storm events. He said this project would have to be designed so there would be no adverse effect on abutters, and added the Planning Board

process would be rigorous with that. He said he felt they could address the drainage issues. This project would go through DES and there will be several layers of review.

Mr. Prior asked what the purpose of the lot line adjustment would be. Mr. Shea said it would be to give a little more area so there can be a higher yield of units.

Mr. Hauschildt asked how many bedrooms there would be. Mr. Texiera said there will be 16 one-bedroom units and 4 two-bedroom units.

Mr. Baum asked if there is a potential for an increase in units. Mr. Shea said no, there will only be 20 units.

Ms. Davies asked if there will be any sharing of facilities. Mr. Shea said there will be a maintenance garage. Ms. Davies asked if there will be any additional amenities. Mr. Shea said there is a possibility of a playground.

Mr. Baum asked for a better explanation of the use of the community facility. Mr. Texiera said there will be community buildings on both properties. He said they will have a laundry facility and there is a playground and basketball court at Linden Fields which they are thinking of putting in a walkway to access those from the proposed project.

Attorney Somers addressed the special exception criteria. She said it is a permitted special exception and this neighborhood is almost exclusively residential. The property will be landscaped with a 50-foot vegetative buffer. This project will have to go to Planning Board for site plan approval. The project won't impact surrounding property values. Through research, she found there are 477 housing units if you look at all the abutters and this proposal will only add an additional 20 which is an increase of 4% in the neighborhood. She said the addition of 20 units would be adding to the existing stock of housing. In all, she said the applicants feel they meet all the special exception criteria.

Paul Deranian, of 78D Linden Street, asked how many one-bedroom units there would be. Mr. Prior said there would be 16 one-bedroom units and 4 two-bedroom units. Mr. Deranian took some pictures of the existing Linden Fields and said the biggest issue he has is the drainage. He showed the Board pictures he took of the overgrown area which blocks the drainage. Mr. Thielbar said the drainage on the new project is the job of the Planning Board when this gets to that level.

Gary Morrisette, of 102 Linden Street, said he himself and his brother are the whole south end of this development. He said there has been a lot of water issues on the property. He said he would fight this just because of the water problems they have had. He was hoping to hear a good drainage plan tonight. Chair Thielbar said this is the wrong forum for that.

Mr. Deranian asked what type of concerns they could bring up for the ZBA that could alter their decision. Chair Thielbar said a legitimate argument would be that this proposal would significantly alter the value of surrounding properties. Ms. Davies said this discussion was mostly about the use. Mr. Deranian said this parcel is zoned R-2 Single Family. He wondered how the town can just turn that over and allow a big building. Mr. Prior said the applicants need to meet certain criteria that the town and state have put in place.

Debra Morrisette, of 102 Linden Street, said she believes her property value will decrease because of the large buildings that will now be seen on the property. She said there are water problems already from the existing project. She said two buildings 50 feet from her right of way will devalue her property.

Mr. Deranian said the damage from the drainage for this project will devalue his property.

Mary Scherer, of 15 Thelma Drive, said the first EHA project cut a lot of woods near her house. She said it makes a difference her property value. When she bought her house there was a wood buffer. She disagreed that property values will not be diminished.

Andy Baldinelli, of 86 Linden Street, asked if a fence could be put up to separate the right of way and his yard. He said his issue is that kids are using his yard to go to the existing project's playground. He was wondering if there could be a barrier of some sort. Mr. Thielbar said this too is a Planning Board issue.

Attorney Somers said the applicant would be happy to limit the number of units to 20, in a condition in the motion. She said they were present tonight asking for a special exception for this use. She said they plan on addressing the buffering required of them. The applicants do anticipate a thorough discussion about drainage at the Planning Board. She said it does not make sense for the applicant to move forward with drainage and expensive engineering plans until they get the green light tonight.

Mr. Hauschildt asked what the applicants can say to abutters about kids crossing their property; what kind of screening will be provided. Attorney Somers said they intend to keep the buffers and vegetative area separate from the existing project. That is their plan for screening and landscaping. When they go to Planning Board, they may have a discussion about fencing.

Mr. Hauschildt commented that Linden Fields seems to be more for families as there are more bedrooms in the units, and the proposed project may have less families because they are mostly one-bedroom units. Mr. Texiera said there are 44 bedrooms at Linden Fields and 24 bedrooms in the proposed project.

Mr. Prior said he heard nothing in this application that requires shared amenities to be necessary.

Chair Thielbar closed the public discussion and turned the discussion to the Board.

Mr. Hauschildt said it appears most problems are with the drainage and screening issues. It is a big problem with the existing project. He said they should pay close attention so that won't happen with this proposed project. He said sound and sight screening they do need to take under consideration. He would propose a motion to grant this application with two conditions. One condition would be that the lot line is moved as shown on the application plan so the subject comprised of 8.8 acres.

Mr. Prior said if they go with a max of 20 units and don't move the lot line, they can't put in the 20 units.

Chair Thielbar said the problem here is putting unnecessary conditions on an application.

Mr. Hauschildt suggested opening back up with public discussion to ask the applicant if the lot line adjustment would be an issue.

Motion: A Motion was made by Mr. Hauschildt and seconded by Mr. Prior to reopen the Public Session to ask the applicant a question. Motion carried – all in favor.

Attorney Somers said they have no objection with the lot line.

Mr. Hauschildt suggested they move the lot line as shown on the application. He went through the special exception criteria. He said the drainage issues can be addressed in a condition on approval. He said parking is not a problem. He would like to add a condition that the Planning Board or Town Planner look carefully to ensure adequate drainage and screening.

Motion: A Motion was made by Mr. Hauschildt and seconded by Mr. Baum to approve the application as presented for up to 20 units of multi-family housing comprised of three family building open spaced development plus any auxiliary structures such as community centers as may be required with the conditions that 1) the lot line is moved as shown on the application plans so that the subject comprised is 8.8 acres, and 2) that the Planning Board look carefully to ensure adequate screening and drainage. Motion carried – all in favor.

2) *The application of 2 Hampton Road LLC for an amendment to (or clarification of) the variance approval granted on August 20, 2013 (ZBA case #1457) to permit multi-family residential use on the property located at 2 Hampton Road. The Applicant is proposing to construct a professional office building on the southwest corner of the property. The subject property is situated in the PP-Professional/Technology Park zoning district. Tax Map Parcel #69-3. Case #1507.*

Chair Thielbar read the application.

John Ratigan, from DTC, PLLC, explained how this proposal is on an area that is well suited for this use. There is a professional office park across the street and two others nearby. The site plan application has been filed. He said they had come to an understanding that the application required some guidance. This use is permitted in this zoning district. There was no one present to speak in opposition of the project. All abutters have been notified. He said they have an application that meets the ordinance.

Mr. Hauschildt explained that the ZBA does not do variance amendments. Instead, the protocol is to submit a new variance request.

Chris Hilson, from DTC, spoke as a citizen, saying he lives close to this project and he is in favor of it.

Chair Thielbar closed the public session.

Mr. Hauschildt stated he does not see where the Board restricted the use to just residential. He did not think they needed a variance or an amendment.

Chair Thielbar said he does not believe there is hardship here. He asked if it is possible to create a new lot.

Ms. Davies said she felt uncomfortable on the basis that the original variance was granted because this needed to be residential. She wanted to hear evidence that additional density is allowed on this lot.

Mr. Prior said they approved a variance saying this lot was to be residential. He saw that as the whole lot was just to be residential. Mr. Hauschildt said they just allowed residential and didn't say other uses can't be allowed.

Ms. Davies said she never heard the right was reserved to have additional uses on this site when the variance was granted in 2013. Mr. Hauschildt said they applicant is not giving up their original right. Ms. Davies said they didn't think they could layer on a variance like that.

Mr. Eastman said they explored the option for a subdivision as they have enough frontage. He also added that density is not an issue. He said this would not affect density on the existing land.

Mr. Hauschildt suggested the applicant provide guidance that they attempt to subdivide the property, or go for a variance for mixed use.

Motion: A Motion was made by Mr. Hauschildt to make a statement by the Board that since the proposed use of this property is within the allowed uses of the property and does not require a variance or special exception in order to use the property as proposed, that no action by the Board is required and they can go ahead with their development. With no second, Motion fails.

Again, Mr. Hauschildt suggested the applicants subdivide or obtain a variance for mixed use.

Mr. Prior said the ZBA does not amend variances.

Motion: A Motion was made by Mr. Hauschildt and seconded by Ms. Davies to move back into public session. Motion carried – all in favor.

Attorney Ratigan said no one is opposed to this proposal. He said they have worked with the town for two years and this is the only place they could find to put this office building.

Mr. Prior said he was concerned that they did grant a variance to put this parcel into residential. Mr. Hauschildt asked the property owner why they don't subdivide. Bob Paolini, property owner, said subdividing wouldn't be legally or financially feasible.

Chair Thielbar closed the public hearing.

Mr. Hauschildt said he could not see how the applicant can't build within the zoning code. Mr. Baum agreed that the Board didn't take away any rights, nor is any use prohibited. Mr. Prior said the abutters have not changed and that is why he was starting to come around to Mr. Hauschildt's thinking. Chair Thielbar said the hardship argument doesn't go away.

Mr. Baum said his hang-up has been the whole traffic issue. He said it was a big point of discussion when this came up in 2013.

Motion: A Motion was made by Mr. Hauschildt and seconded by Mr. Prior that the Board expresses the opinion that a variance is not required for the applicant to develop a small portion of the property for commercial as indicated on the application plan. Motion carried by majority vote of 4-1. Ms. Davies voted nay.

Other Business:

Approval of minutes: 11/17/15, 12/15/15, 2/16/16, and 3/15/16

December 15, 2016 minutes:

Chair Thielbar, Ms. Davies, and Mr. Hauschildt had the following amendments to page 1: striking the second sentence, changing the sixth sentence to read "The existing lot has a garage, which straddles the lot line.", changing the eleventh sentence to read "He would also propose moving the lot line between the lots to save the garage.", add "in order to better accommodate the placement of dwellings on

higher ground” to the end of the fifteenth sentence, changing “residing” to “re-siding” in one spot, and changing “surrounding” to “surrounded” in one spot.

Motion: A Motion was made by Mr. Hauschildt and seconded by Ms. Davies to approve the December 15, 2015 ZBA minutes, as amended. Motion carried – all in favor.

February 16, 2016 minutes:

Chair Thielbar and Mr. Prior had the following amendments: changing the date to 2016 on the first page and changing “Mr. Bair” to “Mr. Nunes” in all spots.

Motion: A Motion was made by Mr. Prior and seconded by Mr. Hauschildt to approve the February 16, 2016 ZBA minutes, as amended. Motion carried – all in favor.

March 15, 2016 minutes:

Chair Thielbar had the following amendments: changing the date to 2016 on the first page, correcting the spelling of his name on page 3, and changing “they” to “the” on page 3.

Motion: A Motion was made by Mr. Prior and seconded by Mr. Hauschildt to approve the March 15, 2016 ZBA minutes, as amended. Motion carried – all in favor.

Selection of Board Representative for Planning Board Master Plan Steering Committee

Motion: A Motion was made by Mr. Hauschildt and seconded by Ms. Davies to appoint Hank Ouimet to the position of Board Representative for the Planning Board Master Plan Steering Committee. Motion carried – all in favor.

Adjournment

A Motion was made by Mr. Prior and seconded by Mr. Baum to adjourn the meeting at 9:38pm. Motion carried – all in favor.

Respectfully submitted,
Nicole Piper
Recording Secretary