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TOWN OF EXETER
ZONING BOARD OF ADJUSTMENT
January 15, 2019
7:00 PM
Final Minutes

I. Preliminaries

Members Present: Chair Laura Davies, Robert Prior, Kevin Baum, Rick Thielbar, Christopher Merrill – Alternate, Esther Olson- Murphy – Alternate

Members Absent: Vice-Chair Joanne Petito, Martha Pennell – Alternate, Hank Ouimet - Alternate

Others Present: Doug Eastman

Call to Order

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

Introductions by Roll Call

Chair Davies identified the members who were present by Roll Call: Esther Olson-Murphy, Rick Thielbar, Laura Davies, Robert Prior, Kevin Baum, and Christopher Merrill. The active voting alternate for the hearings is identified as Esther Olson-Murphy.

II. New Business

Hearings

1. Request for extension of Variance Approval for Case #14-77

Mr. Christopher Lumenello addressed the Board and stated that he was the new owner of the property at 29 Front Street as of a month ago. He explained that he was unable to get permission from the previous owner to present the application for an extension to the ZBA until after the closing. The request is for the same concept with the same details as presented.

Chair Davies asked to refresh the Board on what was requested. Mr. Eastman approached the plan map and explained it was expansion of a side setback issue for a lot on the corner of Front Street to straighten the building out. The Building is in the C-1 zone and the application called for the residential units to be on the first floor rather than the commercial which were permitted. The approval is from several years ago and none of the regulations have changed or become more restrictive. There is parking on site.

Mr. Thielbar asked if Planning Board approval would be required next? Yes, and Historic District also. Mr. Thielbar asked when the extension would start, retroactively? Mr. Baum advised it would be for August 20, 2019 granted retroactively. Chair Davies questioned whether it was in the rules to grant a longer extension than that.

At 7:10 PM Chair Davies opened the hearing to the public for questions and comments and being none, closed the hearing to the public for deliberations.

38 Mr. Baum stated he was comfortable granting the extension retroactively and if the
39 applicant needed additional time he could come back. Mr. Prior stated he did not want
40 to discourage improving this property and felt the Board should grant an extension the
41 same length as anyone else, 12 months. Mr. Thielbar stated he is not done when he is
42 finished with the ZBA and still has to go to Planning and Historic District Commission.
43 Chair Davies stated they are getting an extension, not starting from scratch so it is
44 possible. Ms. Olson-Murphy expressed concerns that some things aren't the same as in
45 2014. Chair Davies agreed she would like to see something done with the property.

46 ***Mr. Baum motioned to approve the request for an extension of one year,***
47 ***retroactively so that the approval will expire August 20, 2019. Mr. Prior seconded***
48 ***the motion, with all in favor, so moved.***

49 **2. The application of Exeter Corporate Park Development, LLC for a variance from**
50 **Article 4, Section 4.4 Schedule III: Density and Dimensional Regulations - Non-**
51 **Residential to permit proposed commercial site development to be served by an**
52 **on-site septic system and well where development without municipal water and**
53 **sewer is cited as "Not Permitted". The subject property is located on Holland**
54 **Way, in the CT-Corporate Technology Park zoning district. Tax Map Parcel #66-1.**
55 **Case #18-30.**

56 Christian Smith of Beals Associates appeared on behalf of the applicant. Mr. Smith
57 noted Mark Hodson was also present.

58 Mr. Smith presented a plan map of the property which outlined the building, septic, leech
59 field and their existing distances to the municipal water and sewer connections which
60 exceeded 2000' to tie into sewer and 1800' feet to tie into the former Tyco property,
61 which is a huge unreasonable and expensive distance, with ledge and other concerns.

62 Mr. Thielbar asked where it said he can do what it is that he is looking to do. Mr. Smith
63 referred to Schedule III of Density and Dimensional Regulations for CT Corporate
64 Technology and Professional Park Districts.

65 Mr. Smith stated it is not contrary to the public interest because the alternative on-site
66 well and septic proposed has been approved by DES in the same location. The shop
67 will be used for bending sheet metal and parts for HVAC systems.

68 Mr. Smith stated the spirit of the ordinance is met because the property is 14.5 acres
69 with NH DES regulations in place with the nearest connection more than 1800 linear feet
70 away. The system can handle 16000 gallons; the proposed use would use only 650 per
71 day for the office and its employees.

72 Mr. Smith stated substantial justice would be served because the length to connection to
73 municipal water and sewer is unreasonable with no benefit to the developer.

74 Mr. Smith added that property values would not be diminished and could be increased
75 by development of the parcel.

76 Mr. Smith stated the hardship is the ledge and distance. If the Town were to bring the
77 connections for water and sewer to the parcel, the developer would be happy to connect
78 in the future.

79 Mr. Smith explained the enviroseptic system and how it works similar to a pretreatment
80 system that treats the nutrients before they reach the leech field as well as distances to
81 the protected areas, wetlands, shoreland, reservoir and Brook. "It would be an anomaly
82 if anything reached any of those."

83 Mr. Thielbar questioned whether there was an aeration system – no, plastic tubes and
84 geofabric. Mr. Thielbar asked if it would look like a regular leech field? Yes. Mr.
85 Thielbar asked what determined the design – the flow. The number of employees, the
86 lack of a galley kitchen. Mr. Thielbar asked what would happen if the use became more
87 intense. Mr. Smith stated the leech field would be improved to accommodate that.

88 Mr. Prior asked who would monitor that? Mr. Smith responded there are approximately
89 34 employees in the shop and office. If the owner upsized, they would be in violation of
90 the DES approval. Any change to the building would trigger the Building Inspector to
91 address. Mr. Prior asked about the drinking water and who monitors that. Mr. Smith
92 stated the owner would be responsible, it would be tested initially before occupancy.

93 Mr. Baum asked about impacting the reservoir or a catastrophic accident. Mr. Smith
94 explained the procedure which would involve having the tanks sucked out and stored
95 until repaired.

96 Chair Davies opened the hearing to the public at 7:40 PM for comments and questions
97 and being none, closed the hearing to the public for deliberation.

98 Chair Davies indicated the record should reflect the memos of support from the Town
99 Manager and the Economic Developer Director, the factual explanation from Jennifer
100 Perry of the DPW and Town Planner Dave Sharples.

101 Mr. Prior stated he had concerns the variance runs with the property and not the owner
102 in a post existing use world. A 26,000-sf building could be improved or have a more
103 intense use. The Board was given reassurances from the applicant and the Building
104 Inspector. The future owner has the ability to expand the leech field or possibly connect
105 to future municipal connections.

106 Chair Davies stated the intent of the ordinance is a concern, to protect the watershed,
107 the Town water supply. Based on the information provided, not technically the right
108 people to evaluate scientific stuff. Chair Davies asked if this would be reviewed by the
109 Town Engineer, or TRC or third-party review. Mr. Eastman noted it will go before the
110 Planning Board and those would be addressed. Mr. Thielbar added the state has
111 reviewed with the previous applicant for a more intense proposed use and sensitivity to
112 the water concerns is their job. Mr. Eastman added the Town Engineer could review.
113 Once installed NH will physically inspect and sign off.

114 Ms. Olson-Murphy questioned whether approval would be setting precedents for others
115 to want to do the same thing. The Town hasn't provided access, the parcels have sat for
116 years without being tied in to municipal services while the property owners wait. Mr.
117 Baum added the owner could agree to connect as a condition, if the connection
118 becomes available.

119 Mr. Eastman noted any further development on that side of Holland Way is questionable.
120 If a larger user such as a hotel came in, they would not use septic and at that point the

121 developer would end up paying to have it done and benefitting other owners. Mr.
122 Eastman explained the considerations to spending \$5 million dollars to run water and
123 sewer out there, "are you going to recoup that?"

124 ***Mr. Baum motioned to grant approval of the application of Exeter Corporate Park***
125 ***Development, LLC for a variance from Article 4, Section 4.4 Schedule III: Density***
126 ***and Dimensional Regulations - Non-Residential to permit proposed commercial***
127 ***site development to be served by an on-site septic system and well where***
128 ***development without municipal water and sewer is cited as "Not Permitted"***
129 **subject to two conditions:**

- 130 1. In the event municipal water and sewer is extended to the property in the
131 future, the owner will connect to municipal water and sewer; and
132 2. The property will utilize an advanced enviroseptic system or equivalent
133 system.

134 ***Voting in favor were: Chair Davies – aye, Mr. Thielbar – aye, Ms. Olson-Murphy –***
135 ***aye, Mr. Baum – aye, Mr. Prior – aye. Motion approved 5-0.***

136 **III. Approval of Minutes – December 18, 2018**

137 Chair Davies asked if there were any proposed amendments. The Board agreed to
138 amend Lines 42 and 43, remove the middle sentence and Line 51 "each of the criteria
139 for special exception were addressed."

140 ***Mr. Thielbar moved to approve the minutes of December 18, 2018 as amended.***
141 ***Ms. Olson-Murphy seconded the motion, with Mr. Baum and Mr. Prior abstaining,***
142 ***approved 4-0.***

143 **IV. Adjournment**

144 ***Mr. Merrill motioned to adjourn the meeting at 8:00 PM. Mr. Baum seconded the***
145 ***motion, with all in favor, so moved.***

146 Respectfully submitted,

147

148

149 Daniel Hoijer,
150 Recording Secretary

151 Via Exeter TV