

EXETER ZONING BOARD OF ADJUSTMENT JULY 19, 2011 MEETING MINUTES

Present:

Chairman: John Hauschildt.

Regular Members: Patrick Driscoll, Hank Ouimet, Martha Pennell.

Alternate Members: Marc Carbonneau, Steve Cole, Rick Thielbar.

Building Inspector/Code Enforcement Officer: Douglas Eastman.

Deputy Code Enforcement Officer: Barbara McEvoy.

The meeting convened at 7:02PM.

Board Update:

Mr. Rick Thielbar of 34 Pickpocket Road was appointed to the Zoning Board of Adjustment as an alternate member by the Board of Selectmen on July 18, 2011. His term expires 4/30/2013.

*(Mr. Thielbar was present as an audience member. Ms. Pennell stepped down during case #1422.
Mr. Carbonneau was a voting member for case #1422.)*

Agenda:

1. Case #1421: 110 Linden Street – Variance request.
2. Case #1422: 77 Kingston Road, RiverWoods Company – Amendment to Special Exception request.
3. Case #1423: 81 High Street – Variance request.
4. Case #1424: 27 High Street – Variance request.

New business:

1. Case #1421:

The application of Pendexter Property Management for a variance from Article 5.3.4 A & B to permit a state approved septic system that will not comply with the town requirements to be installed on the property at 110 Linden Street for a potential two-lot subdivision. The property is located in the R-2, Single Family Residential zoning district. Tax Map Parcel #104-76.

Mr. Larry Morse, Attorney Sharon Somers of Donahue, Tucker, Ciandella and Mr. Jon Ring appeared before the board representing the applicant. A 2007 variance had expired in July of last year (three year expiration) and the applicant was looking to have the approval extended much like the extensions given to Felder Kuehl properties and Seacoast Credit Union.

It was mentioned that the case did not need to be reopened and that they were looking for relief from article 12. Also, the applicant never received an approval letter and was therefore unaware of the three year expiration of the approval.

Chairman Hauschildt mentioned that the applicant was requesting the same relief that was granted previously.

Mr. Ouimet stated that the board could move forward whereas the applicant seems to be in a rush for the appeal.

Attorney Somers stated that the applicant wants to move forward with relief from 5.3.4 as a new application because of the potential for a two-lot subdivision of the property.

Mr. Jed Shepard of NHSC gave the board a presentation and reiterated that the applicant wants to reinstate the 2007 variance because nothing has changed. Mr. Larry Morse of NHSC (now GZA) was also present for soil information.

Attorney Somers addressed the criteria for variance at this time. Mr. Morse then reported test pit results at 20" and 22" and reaffirmed via a brief summary that the testimony of Jed Shepard of NHSC in 2007 was accurate. He then gave a brief summary of the NHDES process.

Mr. Ouimet mentioned that the state standard was stricter regarding separation of native soils.

At this time, Chairman Hauschildt opened the hearing to public testimony.

Mr. Paul Morrissette of 100 Linden Street approached the board. He stated that the entire property with the exception of a small knoll was a wetlands/swamp. It was clarified that this was a 9.5 acre parcel and that there were state flagged wetlands. Mr. Morrissette then said that he has lived at his property for 73 years and was very familiar with the land and that he is concerned with the additional water/drainage. It was also mentioned that the Exeter Housing Authority (Linden Fields) development never followed through with the proposed drainage improvements which has significantly increased the water flow over other properties in the neighborhood.

Chairman Hauschildt asked if the system were placed where adequate would there still be concern. Mr. Morrissette answered that he was not opposed to the project, but did not want any more water on his property.

Mr. Gary Morrissette approached the board and said that the property has always been wet and that he was also concerned with more water. He added that additional development will only create more problems and that properties downstream will be impacted as well.

Ms. Dianne Arnheim of 114 Linden Street added that water also concerns her.

Attorney Somers commented that all concerns of the abutters will be addressed by the Planning Board and Conservation Commission. She reiterated that the applicant is requesting relief from the Town regulations for seasonal high water and that this will not impact surface water or wetland pollution.

Mr. Jon Ring of Jones and Beach Engineers stated that a drainage study was conducted. He also mentioned that the wetland area, leach field and house location have not been staked yet.

The public hearing was closed and the board began deliberations.

DELIBERATIONS

Mr. Cole mentioned that there were no changes from the previously granted variance and that they were only talking about a septic system.

Mr. Ouimet mentioned that there were many abutter concerns and that the Planning Board was not germane at this point.

Ms. Pennell read through the criteria for variance at this point and the board found that the applicant met all of the criteria.

**MOTION: Mr. Ouimet made a motion to approve the variance as presented.
Mr. Cole seconded.
The motion passed unanimously.**

2. Case #1422:

The application of RiverWoods Company at Exeter for an amendment to the previous special exception approval granted on February 15, 2011 (Case #1412) permitting the property located at 77 Kingston Road to be developed for a proposed elderly congregate health care use in conjunction with the abutting RiverWoods facilities. The amendment is specifically related to the proposed building footprint and the total square footage of the building restriction. The subject property is located in the R-1, Low Density Residential zoning district. Tax Map parcel #97-43.

(Ms. Pennell recused herself for this case. Mr. Carbonneau was seated as a voting member.)

Attorney Charlie Tucker of Donahue, Tucker and Ciandella approached the board on behalf of the applicant and gave a brief history of the project and an introduction.

Mr. Mark Moeller of RiverWoods stated that the dimensional plans, elevations and square footage that were previously presented for construction on the Reedy property site did not accurately reflect the second plan on the new site. The new site is located off of White Oak Drive. Continuing, Mr. Moeller stated that an elevator has been added to the plan and this addition caused a reorganization of the building layout. He mentioned that there would be a smaller footprint, but increased overall square footage with the two stories that are being presented. Clarifying, Mr. Moeller stated that the footprint of the new building would be 4259 square feet with a total of 7473 total square feet. It was mentioned that there would be a complete, non-habitable basement, there are no parking changes proposed and the applicant wants to build efficiently.

Attorney Tucker stated that the proposal satisfies all of the criteria for special exception.

Mr. Ouimet mentioned that there is no change in the intensity of the use and that the square footage change was not substantial.

At this time, the Chairman opened the hearing to public testimony and there was none.

DELIBERATIONS

Mr. Cole read through the criteria for special exception. The board agreed that the applicant met all of the criteria.

**MOTION: Mr. Cole made a motion to approve the amendment request as presented.
Mr. Ouimet seconded.
The motion passed unanimously.**

(At this time, Mr. Carbonneau was excused. Ms. Pennell was reseated as a voting member.)

3. Case #1423:

The application of Steven P. Wilson (d/b/a Hampshire Development Corporation) for a variance from Article 4, Section 4.2 Schedule I: Permitted Uses and Article 5, Section 5.1.2 for a proposed change of an existing non-conforming use to permit the conversion of an existing nursing home to elderly multi-family housing. The subject property is located at 81 High Street (former Eventide Home), in the R-2, Single Family Residential zoning district. Tax Map Parcel #71-97.

Representing the applicant, Attorney Ed Woicak of Marshall Law addressed the board. He stated that the subject parcel was a 2.1 acre lot in the R-2 and Historic District. It has town water and sewer and was formerly a 24-bed nursing home with 11,000+ square feet of useable area. It was a pre-existing non-conforming use and the former Folsom homestead. Continuing, Attorney Woicak stated that the property was left to the trust (established in 1934,) as a home for the aged. In 1950, Eventide incorporated with Folsom and in 1952 it was opened as a nursing home. The property has been on the market since it closed its doors in 2008. It was also mentioned that the abutting properties were Emerson Commons (21 bedrooms) and Leavitt Farm (five units with 11 bedrooms.)

Attorney Woicak then stated that elderly housing units are being proposed and would not exceed 24 bedrooms and 17 units. He then gave the board a description of the site plan and mentioned that 21 parking spaces are required for the 17 units. The 21 spaces include one space for each unit, three guest spaces and one handicapped space. It was mentioned that there is extensive renovations planned for the interior and the proposed renovation to the exterior would make the building more architecturally similar to the abutting homes in the neighborhood. Attorney Woicak also stated that all dimensional requirements have been satisfied with the change in the non-conforming use.

A review of the variance criteria was begun at this time. It was also mentioned that only residents will occupy the building and there will be no staff in the offices. There would be a lesser impact on the neighborhood by removing the commercial affect on the abutters. Attorney Woicak also stated that this is a positive proposal and that strict compliance of the ordinance would require substantial demolition of the building which is not economically feasible and if the building exists it needs to be used.

Chairman Hauschildt asked if there would be assisted living at the site or any medical component. Attorney Woicak stated no. Mr. Wilson clarified that the building will be 55+/- age restricted. It was then clarified that this will in fact be a multi-family use.

Mr. Ouimet asked if the units would be rentals. Mr. Wilson stated that they will be rentals and that he has no intention of making them condos.

Mr. Cole asked if the barn was going to be converted to one unit. Mr. Wilson answered yes and also mentioned that exterior renovations will require HDC approval.

Ms. Pennell mentioned the April 2010 ZBA discussion and the implication that the nursing home use was abandoned. She then asked when the property was first put on the market.

Mr. Wilson gave the board a chronology of the feasibility study (for marketing) that was done by the trustees. He stated that Florence Ruffner marketed the property 7/09 until 2/11. He also stated that he will own the property on July 30, 2011 and that a letter had been provided to Doug Eastman, the Code Enforcement Officer, from Doctor Dribble. Attorney Woicak also mentioned that an auction of the property had been scheduled for June of 2011 and it was described as a 24-bed nursing home.

Attorney Woicak then stated that the residents of the nursing home were removed in 2008 and that all services were maintained. He then mentioned 5.1.3 and stated that marketing was deemed as intent to continue use. Mr. Eastman mentioned that an e-mail had been received from Dr. Dribble and that he has had numerous discussions with Dr. Dribble and had requested clarification of the marketing.

Mr. Ouimet clarified that the applicant was not asking to continue the non-conforming use; the applicant was asking to change the use.

At this time, the chairman opened the hearing to public testimony.

Ms. Folsom, an 83 year old Exeter native approached the board and mentioned that the subject property was originally a retirement home. She then wished Mr. Wilson good luck.

Ms. Maureen Barrows addressed the board next and mentioned that she had been aware of the property for a long time and that she had contacted the county. She mentioned that the property sat on the market a long time and that the area is in need of affordable, elderly housing whereas the county and the Exeter Housing Authority (277 Water Street) are all full with waiting lists.

An abutter from Emerson Common approached the board. She stated that the 2nd and 3rd floors of their units overlook the subject property and that there is no landscaping currently. She mentioned a concern for excessive noise levels and that it should be affordable for fixed income folks.

A resident from 86 High Street addressed the board and stated that he was glad to see the residential use but disappointed that it will be rentals and not condos.

In rebuttal, Mr. Wilson described the proposed renovations for the barn and stated that the Planning Board will address the site issues in detail. He also mentioned that construction hours will be 7:30am – 3:30pm and screening will be provided for the parking with the intent to use pervious pavement in gravel areas. Mr. Wilson then stated that the buildings are in good condition.

The public hearing was closed at this time.

Ms. Pennell stated that she wants to clarify if this project does not go through, can the nursing home continue?

Mr. Ouimet answered that the existing use has no bearing on the application request.

Chairman Hauschildt stated that it is pretty clear that the use had not been abandoned.

Ms. Pennell asked to clarify that there will be 17 units, maximum and that they will be 55+/age restricted. She also reiterated that there would be 21 spaces to accommodate one for each unit, three guest spots and one handicapped spot.

Mr. Ouimet began a discussion of the criteria for variance and the board agreed the applicant met all of the criteria.

Mr. Driscoll asked about beds vs. bedrooms. He mentioned that there is no people comparison and wondered if there would be the potential to increase the number of occupants.

MOTION: Mr. Ouimet made a motion to approve the variance request subject to the project being age restricted to 55+.
Mr. Cole seconded.
The motion passed unanimously.

(At 9:15pm the board adjourned for a short recess. The board reconvened at 9:25.)

4. Case #1424:

The application of Phillips Exeter Academy for a variance from Article 9, Section 9.3.4.C to permit the proposed construction of a 140 square foot addition to the existing residence (known as the Harriet Tilton House) which is located within the required 150' setback for the Exeter Shoreland Protection District. The subject property is located at 27 High Street, in the R-2, Single Family Residential zoning district. Tax Map Parcel #72-61.

(Ms. Pennell mentioned that she was an abutter to the applicant in another location and stated that she would recuse herself if the applicant so wished. Mr. Leighton, representative for PEA, said there was no problem.)

Mr. Leighton, representative for the applicant, stated that TMS architects prepared the plans. He then stated that 27 High Street, the subject property, was a duplex that had been converted in 1999. He mentioned that the applicant wanted to add a 140 square foot addition for a new entrance/mudroom and to improve drainage. He then addressed the criteria for variance.

Mr. Ouimet mentioned that the new addition would only be visible from the other side of the river in the winter time.

Ms. Pennell inquired if the applicant had been before the Historic District Commission yet. Mr. Leighton stated that they are scheduled for Thursday 7/21/11. It was also mentioned that two corners of the existing house are closer to the river than the proposed addition.

Mr. Driscoll asked what the distance would be. Mr. Leighton answered 75'.
At this time the chairman opened the hearing to public testimony and there was none.

DELIBERATIONS

A brief summary was discussed by the board members.

Mr. Driscoll walked through the criteria. The board agreed the applicant met all of the criteria.

**MOTION: Mr. Driscoll made a motion to approve the variance, as presented.
Mr. Ouimet seconded.
The motion passed unanimously.**

Other Business:

1. Minutes of 6/21/11.

(Mr. Cole abstained from voting whereas he was not present at the June meeting.)

**MOTION: ~~Mr. Ouimet made a motion to approve the June 21, 2011 minutes as submitted.~~
Mr. Driscoll seconded.
The motion passed unanimously.**

2. Introduction of new ZBA member.

Mr. Rick Thielbar was introduced to the board members. He was appointed July 18, 2011 by the Board of Selectmen to serve as an alternate with a term expiring 4/30/2013. Mr. Thielbar informed the board members of his background and was welcomed.

**MOTION: Mr. Cole made a motion to adjourn.
Mr. Ouimet seconded.
The motion passed unanimously.**

The meeting adjourned at 9:55pm.

The next meeting of the Exeter Zoning Board of Adjustment will be held Tuesday, August 16, 2011 at 7:00pm in the Novak Room at the Exeter Town Offices.

Respectfully Submitted,

Christine Szostak
Planning & Building Secretary