

EXETER PLANNING BOARD

MINUTES

JANUARY 14, 2010

Chairman Lang Plumer called the meeting to order at 7:05 PM in the Nowak Room on the above date.

PRESENT: Chairman Lang Plumer, Vice Chairwoman Kathy Corson, Clerk Ken Knowles, Selectmen's Representative Bill Campbell, Members: Amy Bailey and Carol Sideris Alternate Members: Gwen English and Dennis Derby, Town Planner Sylvia von Aulock, Natural Resource Planner Kristen Murphy and Deputy Code Enforcement Officer Barbara McEvoy.

It was noted that all board members in attendance would be voting with the exception of Ms. English.

OTHER BUSINESS

FELKON, INC. – PB CASE #2318

The Board reviewed correspondence from Mr. Bob Felder, dated 1/6/2010 (email to Ms. McEvoy) requesting a one-year extension of the conditional approval granted by the Board for his project development on Industrial Drive (Tax Map Parcel #54-2).

Ms. Corson moved to grant the one-year extension, as requested; second by Ms. Sideris. VOTE: 6-1, Mr. Knowles voting in the negative.

NEW BUSINESS: PUBLIC HEARINGS

Chairman Plumer announced that the business before the Board this evening was the second public hearing on the proposed zoning amendments for the 2010 Town Meeting. Ms. Von Aulock stated that four (4) proposed amendments had been posted for this public hearing. Chairman Plumer indicated that the Board would be entertaining public comment on the proposed amendments, and deciding whether or not to sponsor them for inclusion on the Town Meeting warrant. He noted that the proposed amendments being discussed this evening had substantial revisions made as a result of the December 17th meeting and therefore required a second public hearing. He indicated that the full text of the amendments was available here this evening and also in the Planning Office following the meeting. The Board proceeded to discuss the following proposed amendments.

3. Amend Article 5.1 Non-Conforming Uses, subsections 5.1.2 Expansion of and 5.1.4 Continuance of in their entirety. Amend Article 5.2 Special Exception, subsection H, by deleting and replacing with: "That the use shall not adversely affect abutting or nearby property values."

There being no discussion from the Board, Chairman Plumer asked if there was anyone wishing to comment on the proposed amendment.

Ms. Mimi Becker, an Exeter resident, expressed concern that the proposed amendment was not clear as to what the process was to inform abutters in a timely manner of a proposed variance.

There being no further public comment, Chairman Plumer closed the public portion of the hearing.

It was noted that the process for informing abutters of any proposed variance requests would be the same as exists today – in accordance with NH RSA 676:7, abutters to the subject property shall be notified by certified mail not less than five (5) days prior to the Zoning Board of Adjustment (ZBA) meeting date.

Ms. Bailey moved to sponsor the proposed amendment, as written, to be placed on the warrant for 2010 Town Meeting; second by Ms. Corson. VOTE: Unanimous.

7. Amend Article 7.5.6 Single Family Open Space Development Internal Setback Requirements by changing title, inserting a new subparagraph C., and D. (renumber existing subparagraphs accordingly) as follows:

7.5.6 Internal Dimensional Requirements

7.5.6.C. Detached single family units on one parcel shall be set apart from each other a minimum of twenty-five (25) feet.

7.5.6.D. Structures shall be a minimum of fifteen (15) feet from side yard property lines and twenty (20) feet from rear yard property lines.

Chairman Plumer opened the hearing for public comment; there was none. The public hearing was closed. ***Ms. Corson moved to sponsor the proposed amendment, as written, to be placed on the warrant for 2010 Town Meeting; motion was seconded. VOTE: Unanimous.***

8. Amend Article 9.1 Wetlands Conservation District in its entirety.

Ms. von Aulock provided a brief introduction to the proposed amendment noting that it was a Zoning Ordinance Review Committee (ZORC) generated proposal. Natural Resource Planner Kristen Murphy provided with a Power Point presentation outlining the background of the ordinance, the proposed changes to this section and their justification.

There being no board discussion at this time, Chairman Plumer opened the hearing for public comment.

Ms. Mimi Becker indicated that she would prefer to see larger buffers being proposed to provide more protection.

Attorney Malcolm McNeill addressed the Board and noted that he was representing the Henderson family with respect to their property on Newfields Road (Fort Rock Farm). He noted that he was a resident of Durham, although was familiar with such ordinances in numerous towns. He commented that one of the most important factors to consider when proposing such revisions is that there must be a balance between constitutional rights of property owners and regulated overlays restricting rights of property owners. He made reference to the comments made by Mr. Knowles, and stated that an appropriate study (and/or assessment) of the town had not been satisfactorily completed in order to fully inform residents.

Mr. Tim Vadney, 26 Auburn Street, inquired if there was any process to compensate homeowners for taking away property.

Mr. Brian Griset, also an Exeter resident, commented that the proposed ordinance was very well-meaning, although based on the way it is drafted it could possibly affect every property in town. He noted that 60% of the town was constructed on poorly and/or very poorly drained soils.

Dr. Kris Vaughn, a resident of Water Street, spoke in support of the proposed amendment.

Mr. Griset again addressed the Board making reference to Section 9.1.1 entitled Purpose and Intent and inquired as to who would determine what the "most appropriate use of land and the protection of wetlands ecosystems and water quality in accordance with the goals and objectives of the most recent Exeter Master Plan."

There being no further discussion, Chairman Plumer closed the public portion of the meeting and returned to Board discussion.

Noting that the entire article had been overhauled, Ms. von Aulock noted that it may not be perfect as amended, but it was necessary for the town to have some regulations in place. She noted that the article could always be further fine-tuned at a later date.

Mr. Campbell stated that the public comments made were good and were all worth considering, although he supported the Board going forward with the proposed amendment to get something in place.

Dr. Derby concurred with Mr. Campbell that the public had afforded some very good comments, and also that the proposed amendment language could use some tweaking. He stated that unfortunately any bonuses given to landowners will only sacrifice the water quality and that now was the time to get some protection in place, either in the zoning regulations or the Board's site plan/subdivision regulations.

Ms. Corson indicated that she had reservations about approving the proposed language and placing it on the warrant for a Town meeting vote if it still needed tweaking.

Ms. English commented that the town could not afford to not approve the proposed amendment. She stated that "it was time" given the serious degradation of water quality and the current status of Great Bay. She indicated that the Board is reasonable when deliberating about issues and would continue to do so. She suggested working with the proposed language over the next year, continue further research of the comments noted earlier, and work on proposed revisions, if warranted, for next year's zoning season. Mr. Campbell concurred.

Mr. Knowles stated that his problem with the amendment, as proposed, was that there were no exemptions for minor projects (i.e. residential garage or shed).

Mr. Campbell moved to sponsor the proposed amendment, as written, to be placed on the warrant for 2010 Town Meeting; seconded by Dr. Derby. VOTE: 4-3, Ms. Sideris, Ms. Corson and Mr. Knowles voting in the negative. (Ms. English was not a voting member).

At this time, Vice Chairwoman Corson and Selectmen's Representative Campbell stepped down from the Board for discussion of the next amendment for the proposed expansion of the Healthcare zoning district. It was noted that Ms. English would now be a voting member.

9. Amend Article 3.2 Zoning Map to depict proposed Healthcare District expansion. Amend Article 6.16 Healthcare District to better define buffers and other requirements within the district.

Attorney Michael Donahue addressed the Board and provided a summary of the proposal to expand the Healthcare District. He indicated that given the Board had seen their PowerPoint presentation on several occasions, he opted to not go through the entire presentation, but would answer any particular questions the Board may have.

There being no questions at this time, Chairman Plumer asked if there was any public comment on the proposed amendment.

Ms. Nancy Sinclair, 22 Auburn Street, provided a PowerPoint presentation in opposition to the proposal. (A hard copy of the PP presentation is part of the file available for viewing at the Planning and Building Department office).

Mr. David Allen, 92 High Street, indicated that all the conceptual ideas discussed for future development of the Hospital campus were possible. He suggested that it would be more prudent for the Hospital to further define their Master Plan and intentions prior to considering the town considering the proposed rezoning.

Ms. Deborah Nelson, 25 Auburn Street, expressed concern about the density in the surrounding neighborhood and impact from the proposed expansion. She noted that a number of years ago, her variance request for the proposed construction of a garage that would exceed the maximum lot coverage in the R-2 zoning district had been denied by the Zoning Board of Adjustment (ZBA). She stated that their rationale was that given the density of the neighborhood, the Board felt it was necessary to maintain the maximum lot coverage requirement. She also mentioned that she had not received any notices since October regarding meetings on this issue.

Mr. Andrew Dagostino, 4 Buzell Avenue, spoke in opposition to the proposed amendment, noting the following points:

- The Hospital should be requested to provide an assessment of the property prior to any decision on the zoning proposal

***These Minutes are subject to possible corrections/revisions at a subsequent
Exeter Planning Board meeting.***

- Further research should be completed on the underlying water source in the immediate area
- Full assessment of impact to the surrounding property values should be conducted
- Consideration of the oral contract between Tom Sager, former president of the Hospital and neighbors in 1982

In closing, he asked that the Board not approve the zoning district expansion being requested.

Ms. Kate Cook, 86 High Street, addressed the Board and noted that she had recently contacted a professional appraisal company. She expressed concern regarding the impact of diminishing property values on the immediate property owners.

Ms. Frances Kane, 34 Auburn Street, submitted a petition dated 1/14/2010 and signed by neighborhood property owners in opposition to the district expansion proposal.

Chairman Plumer closed the public hearing at this time and asked if Attorney Donahue had any comments in rebuttal.

Attorney Donahue briefly rebutted the public comments. He reiterated that this was only a rezoning proposal and not a development proposal. He also indicated that there was no reason not to believe that Tom Sager (former president of made such a statement to the abutters.

Dr. Derby questioned why the hospital did not maximize the proposed area of expansion out to the rear lot lines of the properties along High Street.

Mr. Rob Corson, architect for Exeter Hospital, responded to Dr. Derby's question and explained that the area in question would be utilized to establish a landscape/screening buffer. He also added that the hospital had its own closed storm water system and was not responsible for the flooding and/or wet issues along Auburn Street.

Dr. Derby expressed some concern relative to the remaining land between the proposed zone line and the rear property lines of the High Street properties. Attorney Donahue stated that the hospital proposed nothing for this area. Dr. Derby asked if the hospital could conceivably build houses in this area. Mr. Corson responded that there was no real access to accommodate any type of residential development. Attorney Donahue indicated that it would remain as R-2 zoned property and noted that the hospitals' Master Plan did not propose any use of this area.

(At this time, Chairman Plumer reopened the hearing for public comment.)

Several residents addressed the Board again. Consensus of neighbors was that there was no necessity to approve the zoning expansion proposal this evening. It was represented that the Board members were struggling with trying to make a comfortable decision. It was recommended that the proposal be pushed forward until next year to allow adequate time for further research and consideration by all parties.

Ms. von Aulock commented that existing impervious areas within the buffer zones would be re-established if development occurs. Ms. Bailey noted that language describing more extensive buffers was written into the text of the proposed amendment. Ms. von Aulock also added that the traffic counts conducted in the neighborhood had been reviewed as part of the ZORC discussion. She noted that this information had been provided by Pernaw & Company and was available for public review.

Attorney Donahue stated that they have worked with the abutters through this whole process and have not received any additional input from them, so we would suppose they have no concerns. He reiterated that there was no development planned for the remaining hospital property located in the R-2 zoning district. Attorney Donahue added that the hospital would be glad to make a commitment regarding the Saltonstall building (former Exeter Clinic) that any change to the building would require a variance. He noted that the neighborhood has perceived this proposal as change and harm to the abutters. He also added that there would be no development proposals submitted regarding the residence at 6 Buzell Avenue (and corner of Auburn St.) in the coming year.

Ms. Nancy Sinclair presented a petition in opposition to the proposed district expansion (dated 9/10/09) signed by fifteen (15) residents of the High Street and Rocky Hill neighborhood to the Board.

Ms. Frances Kane spoke of the removal of homes along Prospect Avenue by the Exeter Hospital in the 80's. She reiterated the 'promise' of then-President of the hospital, Tom Sager that no further development would occur beyond the tree line along the south/southwest boundary of the hospital property. She made reference to a letter from Mr. Charles Thayer to the Exeter Planning Board, dated 8/5/98, in which he recollects the previous mentioned events. Ms. von Aulock confirmed that a copy of this letter had recently been provided to the Planning office and was included as part of the record. Mr. Dagostino also submitted a copy of a publication from the Exeter News Letter regarding the same issue.

In rebuttal, Attorney Donahue indicated that his office had completed its research of the Town records and no documentation of the hospital's commitment of "no development" had been found in either minutes or in prior years' zoning amendment files. He reiterated that the proposal before the Board was not for development, but was a proposal to expand and create a better configuration of the H-Healthcare zoning district.

Mr. Campbell recalled the 1998 expansion of the physicians' parking lot (referred to as "upper" parking lot) and the concerns relative to its proximity to the residential homes along Prospect Avenue (and remembering Ms. Helen Carr Dixs' participation in the discussion). He noted that the aforementioned letter from Mr. Thayer had surfaced at that time, as well as public testimony recalling the "promise" made by the hospital in 1982/1983 (approximately, as represented).

At this time, Chairman Plumer closed the public hearing and resumed Board discussion.

There being no further Board discussion, ***Ms. Sideris moved to sponsor the proposed amendment, as written, to be placed on the warrant for 2010 Town Meeting; seconded by Ms. Bailey. VOTE: 4-2, Ms. English and Dr. Derby voting in the negative.***

At this time, Selectmen's Representative Campbell was reseated.

OTHER BUSINESS

APPROVAL OF MINUTES: - None

TOWN PLANNER ITEMS

Ms. von Aulock distributed "Community Service" certificates to the Board members for their dedicated services throughout 2009.

REPORTS ON "OTHER COMMITTEE" ACTIVITY - None

CHAIRMAN'S ITEMS - None

There being no further business before the Board, ***Mr. Campbell moved to adjourn; second by Mr. Knowles. VOTE: Unanimous. The meeting was adjourned at 10:10 P.M.***

Respectfully submitted,

Barbara S. McEvoy
Deputy Code Enforcement Officer
Planning & Building Departments

:bsm