

ZONING BOARD OF ADJUSTMENT	SEPTEMBER 28, 2017 7:00 P.M.
TOWN OF HAMPTON FALLS	TOWN HALL

DRAFT

CALL TO ORDER: 7:00 PM

ROLL CALL: J. DeLeire, Chairperson, F. Perry, Vice Chairperson, S. Bryant, Member, L. Job, Member, P. Young, Alternate (Voting Member), M. Sikorski, Building Inspector, H.B. Fazzino, Secretary. Absent: M. Call, (Member), Alex Dittami, (Alternate Member).

Chairman DeLeire opened the public hearing.

PUBLIC HEARING:

- 1. Case #17-04:** Application from **Dodge Development, LLC**, for a variance to the terms of Article III, Section 11.4.1 to permit a multi-family on 7.92 acre lot where 8 acres is required in Zone A, for property located at Dodge Road, Map 7, Lot 38-1. **CONTINUED TO OCTOBER 26, 2017.**

A letter received from the manager regarding withdrawal of the application. Attorney Somers described the applicant's intent to withdraw.

MOTION: To accept the applicant's request to withdraw the application without prejudice.

MOTION: S. BRYANT

SECOND: F. PERRY

UNANIMOUS

- 2. Case #17-05:** Application of **Avesta Meadows One LP** to amend the previously granted approval, to allow a mix of market rate units and to permit Phase 2 and 3 to be constructed as one final phase for property located on Brown Road, Tax Map 5, Lot 57.

S. Bryant discussed the original vote on the project on April 24, 2015, and that the primary thrust of the project was that it was 1) low income, and 2) for the elderly. P. Young stated that the project was approved for 99 years of low income housing, for those age 62 and over. S. Bryant asked how the Town would know whether a certain number of units were being held aside for Hampton Falls residents.

Tyler Norod, Avesta Development Officer, stated that Phase 1 was for 24 units initially. They receive financing through NH Housing Finance Authority, only for subsidized units. S. Bryant reviewed the funding matrix and wondered what had changed in the plan now. T. Norod stated that in Phase 1, there will be 8 Hampton Falls residents (all of whom are income qualified), 1/3 Exeter residents, and 1/3 Hampton residents.

Attorney Sharon Somers presented the amendment as described in the application narrative and submitted on September 7, 2017. There has been a change in criteria for financing since the original approval (April 23, 2015). The current criteria for new funding would allow for up to

27% of units, 40% of Phases 2 & 3, to be occupied at market rate thereby improving the project's evaluation for funding. Currently there are some applicants for residence that are shut out from applying, because of the low income limits. A statement of construction timing was also made. S. Somers requested that Phase 2 & 3 be constructed simultaneously, and that the request be granted.

M. Sikorski stated that there is a longer term disturbance to the community when each unit is constructed separately.

T. Norod, Avesta Development Officer, was introduced by S. Somers, who discussed the scope of the project, and income limits of \$37,000 for one person, and \$47,000 for two people. Due to new funding opportunities, Avesta is requesting the change from all low income housing for those 62 and older, to 27% at market rate, currently \$1,600 - \$1,800 per month. The increased funding will be used to draw down the debt. If the amendment is not approved, Avesta will construct Phase 2 & Phase 3, one at a time, as the application for funding was made one year ago.

Chairman DeLeire reminded the applicants that when the variance was approved in 2015, a promise was made to the Town that the property would always be used for low income. J. DeLeire asked how the tax rate would change, but no information was available.

P. Young wondered if a profit was anticipated on the market rate units. F. Perry questioned if the State receives more money from market rate units. The response from T. Norod indicated that there was a relationship between the amount of revenue the site would generate with some market rate units and the qualification for state approval of funding. The market rate units would give advantage in terms of evaluation points for receiving second-round funding and lead to a quicker pay down of the construction loan. When queried, neither T. Norod nor Attorney Somers had any exhibits for the board to support any changes in the state's regulations. Initially, more units were allowed by the board in 2015 to satisfy the construction cost because it was for low income housing generating less revenue. However, parking spaces remain low.

Discussion was then opened to the abutters and members of the public.

Lisa Brown-Kucharski, 9 Taylor River Road, asked what the benefit to the Town is? She requested that the total project taxation at full market rate if the requested amendment is approved. She is concerned that the project will tax Town (police/fire/ambulance) services. She also believes that the residents of Hampton Falls should receive preference for the market rate units if approved.

T. Norod stated that Avesta's marketing is focused locally.

Gaylee Robinson, 20 Brown Road, Ms. Robinson stated that Avesta never led the Town to believe that each unit would be condominiumized, with a mix of income levels, with little parking. There has been damage to Brown Road, and dust and noise to the neighborhood, and she is not in favor of Phases 2 & 3 built together. Hampton Falls wanted the project but didn't

want 72 units. She feels pushed, and the building is not as represented in the original hearings in 2015.

T. Norod stated that the large trucks and dust were due to Phase 1 and the preparation of the entire site necessary for Phases 2 & 3.

John O'Brien, 33 Brown Road, asked if the workforce will be increased if Phase 2 & 3 are constructed at the same time, and asked whether the name changed because it is no longer low income? J. O'Brien is not in favor of the amendment.

Wayne Barker, 41 Brown Road, confirmed that the individual units will not be sold as condominiums.

Russ Davies, Depot Road, wondered if the approval has to go together.

F. Perry stated that the issues go together. F. Perry asked the abutters if they were in favor of the amendment. All responded "No."

In addressing the 5 criteria, Attorney Somers stated:

1. That the project would not be contrary to the public interest and mission to provide low income housing;
2. The spirit of the ordinance- the project is the same layout and meets an urgent need;
3. Population density.

No information was presented on the values of surrounding properties not being diminished, nor whether literal enforcement of the provision of the ordinance would result in an unnecessary hardship.

MOTION: To deny the request by Avesta Case #17-05, the application to amend previously approved variance of April 23, 2015, for a lack of substantial proof that the presentation would continue to substantially meet the 5 criteria for a variance.

MOTION: F. PERRY

SECOND: P. YOUNG

P. Young then asked before the vote about different criteria for each type of resident. Mr. Norod confirmed that the market rate residents would have different rules. No information was available on the impact to surrounding towns or a special taxation. Ms. Young restated that she is against the amendment.

S. Bryant wanted more information about the unknown tax consequences, and other ramifications.

F. Perry said there was nothing in the original variance about market rate units. A new variance was suggested, rather than an amendment. Attorney Somers stated that they would not submit a new variance request.

M. Sikorski asked if funding of Phase 2 & 3 together would mandate a shorter construction period. Mr. Norod did not think so. The application deadline is November 21, 2017.

The Board deliberated more than two hours without receipt of exhibits, responsive explanations or documentation from the Applicants.

5 Criteria were reviewed by J. DeLeire:

- 1) Not contrary to the public interest;
- 2) The spirit of the ordinance was not observed as it was a change in request from 2015;
- 3) Substantial justice is done- it was a substantial injustice, with many meetings and hours considering the original variance request;
- 4) Values of the surrounding properties were not diminished- parking and tax structures are unknown,
- 5) Unnecessary hardship- There is no hardship because Phase 2 & 3 can still be built.

VOTE: UNANIMOUS

REVIEW AND APPROVAL OF PRIOR MEETING MINUTES: August 31, 2017

MOTION: To approve the meeting minutes of August 31, 2017 as written.

MOTION: L. JOB

SECOND: P. YOUNG

UNANIMOUS

OTHER BUSINESS: Zoning Amendment Schedule- provided. No zoning amendments are currently planned.

After the October 26, 2017 meeting, The Board changed its schedule to the 3rd Thursday of each month through 2018.

COMMUNICATIONS TO BOARD MEMBERS: No communications were discussed at this time.

ADJOURN

MOTION: To adjourn the meeting at 9:30 P.M.

MOTION: J. DeLEIRE

SECOND: P. PERRY

UNANIMOUS