

**PLANNING BOARD
JUNE 2, 2015 at 7:30 PM
TOWN HALL, 41 SOUTH MAIN STREET**

In attendance:

Members: Kate Connolly, Judith Esmay (Chair), Joan Garipay, Iain Sim, Michael Mayor, Nancy Carter; **Alternates:** Kelly Dent, Brian Edwards

Staff: Vicki Smith **Others:** Carolyn Tenney, Steve Venti, Ellen Arnold, Carol Carr, James Pike, Bob Russell, Susan Mansfield, Rick and Lisa MacLeay, John Vansant, Kathy Zug, Christine Foley, James and Ellen Lynch, Timothy McNamara

1. P2015-11 Submission of Application for Minor Lot Line Adjustment by John Vansant, as Agent for the Trustees of Dartmouth College, property owner of record, to annex 12,835 sq ft from 10 Hilton Field Lane, Tax Map 40, Lot 9, in the "NP" zoning district to 6 Rope Ferry Road, Tax Map 37, Lot 40 in the "SR-1" zoning district.

2. P2015-18 Submission of Application for Minor Lot Line Adjustment by John Vansant, as Agent for the Trustees of Dartmouth College, property owner of record, to annex 2,665 sq ft from 10 Hilton Field Lane, Tax Map 40, Lot 9, in the "NP" zoning district to 6 Rope Ferry Road, Tax Map 37, Lot 40 in the "SR-1" zoning district

3. P2015-12 Submission of Application for Minor Subdivision by John Vansant, as Agent for the Trustees of Dartmouth College, property owner of record, to divide 6 Rope Ferry Road, Tax Map 37, Lot 40, in the "SR-1" and "NP" zoning districts into two lots (creating lots of 31,495 sq ft and 31,315 sq ft). This will create lots in the "SR-1" and "NP" zoning districts.

The Board decided to continue discussion of these three proposals concurrently. There have been no changes since the proposals were last discussed on May 5, except that notices were sent out indicating the annexation of land from the "NP" zoning district.

Kate Connolly said that though 6 Rope Ferry Road was once a two lots, that was long ago and not a grandfathered situation. She did not think that the "NP" district should be used to satisfy the minimum lot size in an "SR" district.

Iain Sim acknowledged the letter from Ellen Arnold, Dartmouth College. He asked Ms. Arnold to elaborate around her argument. He wanted to know how this maneuver satisfied Section 302.

Ellen Arnold reviewed the content of her letter dated May 26, 2015. In summary, Ms. Arnold pointed out that paragraph 1 of Section 302 does not apply. As for paragraph 2 of Section 302, it is presumed that lots can be composed of land in more than one zoning district. It is the College's intention to keep the "NP" area as it is. That area is regulated by the provisions of the "NP" zoning district. Any use permitted by the "SR" provisions of the Zoning Ordinance would be limited to taking place in the "SR" area of

the lot. At present, the College has no development plans for the new lot. The tennis court will be removed and the area landscaped. Any future use of the lot would be regulated by the provision of the "SR" zoning district. She said that to comply with the Subdivision Regulations, an applicant needs to show compliance with the minimum lot requirement of the district and in this case, the requirement for the "SR" district has been met.

Iain Sim requested elaboration about how Occum Pond became part of the "NP" district. Ellen Arnold replied that only property acquired by the Town for conservation purposes or land designated by the owner for inclusion in the district can be made part of the "NP" zoning district. The College did so to preserve and protect Occum Pond. The College allows natural vegetative growth to filter stormwater run-off.

Iain Sim was concerned that future owners will forget about the change in zoning district and residential uses will drift over the zoning district line.

Ellen Arnold said that the property line is quite distinct from the zoning district boundary. As long as the zoning boundary is there every owner must comply with the provisions afforded to them by the zoning ordinance. In the "SR" portions of the lot, only "SR" uses can take place. The "NP" portion is not usable. She said that the College could add something to the deed to bring attention to the owner that the western portion of the lot is "NP" in terms of use. She was confident that that information could be made explicit in the deed.

Michael Mayor said that he has a thirty year history with that area of "NP". He said the area around the pond has been maintained as a meadow with no trees. He was concerned that a change in ownership of part of the "NP" district would result in different management practices and detract from the look around the pond. Ellen Arnold noted that the College has no plans to manage the properties any differently. She said that Dartmouth College is a community member that cares about the natural environment. The College has worked collaboratively with owners around the pond. She would welcome engaging in a best practices conversation.

Kate Connolly suggested a condition of approval where by the "NP" land to be annexed would remain "as is" as of the date of approval.

Ellen Arnold did not think that was a good idea. She thought that the better practice would be to be engaged in evolving management with the intent for preservation and conservation. Invasive removal was cited as an example of a management practice that would not have been anticipated 30 years ago.

Nancy Carter wanted to know whether the "NP" area could be used in the calculation of lot coverage and building footprint. Brian Edwards did not think it was right that the square with sides equivalent to the required frontage should be allowed in the "NP" district. He thought that using the "NP" was contrary to the spirit of the "NP" district.

John Vasant said that accessory uses were also allowed.

Brian Edwards thought that the setbacks should not be measured from lot boundaries in the "NP" district. Ellen Arnold said that setbacks are measured from property lines, not zoning district lines.

Iain Sim was concerned about creating a lot that did not meet the definition of "lot". A lot must conform to its district standards with regard to use, coverage and area. He could not see how this is a compliant "NP" lot. Ellen Arnold said that the College was trying to create two lots, each in two zoning districts. When she reads Section 302, she interprets it that the College needs to show that use of one of those lots complies with the minimum standards in the district. She reiterated that Section 302 allows lots in two districts to be created.

Judith Esmay pointed out that since the "NP" portion of the lot is not sufficiently sized that "NP" uses cannot take place on that area. Ellen Arnold replied that the College is not asking to create an "NP" lot, instead, two lots in two zoning districts.

Brian Edwards suggested a zoning district boundary change. Iain Sim did not think that the Baughman subdivision was a precedent for this case. He pointed out that the Baughman subdivision started with a lot in two zoning districts.

Judith Esmay pointed out that the "SR" area has frontage and the "NP" area of the proposed lots do not.

Kelly Dent wondered if Dartmouth College would be willing to protect the "NP" area with a deed restriction or conservation easement. Ellen Arnold said that the College is willing to put a notice to the future owners that part of the lot is in the "NP" district in the deed.

Ellen Arnold will work on a maintenance provision that would be added to the deed.

PUBLIC COMMENT:

Bob Russell said that he is a resident of Occum Pond area and former President of the Occum Pond Association who has a 20 year relationship with the College. He thought the College needed to publicize better the good things the College does. He said that the Occum Pond neighborhood is unique in Hanover and known to almost every resident. There are lots of walkers and runners whose route involves the Pond area every day. He complimented the Planning Board and said that the work they are doing is very important. The intention of the minor subdivision proposal is to make another buildable lot. He feared that once in private ownership, that part of the "NP" district could be planted in hedges which would be a major change. He brought up the analogy about the camel's nose under the tent. He was adamant that the "NP" area was not to be nibbled at. He urged the Board to reject the proposal and to keep the area "as is".

Kristine Foley lives at 16 Choate Road where her house looks out at Occum Pond. She worried that the land proposed to be subdivided will not always be maintained by Dartmouth College. Her property has a hedge. She noted that mowing and trees are permitted in the "NP" district. She pointed out that this proposal sets a precedent and said that she had concerns about precedence. She said that the land was bequeathed to Dartmouth for preservation, not to facilitate development.

Bill Coyle lives at 16 Occum Ridge. He thought it wrong to permit "franken-lots". He thought the language of Section 302 was ambiguous at best and does not make clear if the lot in *toto* or the lot in a district must comply. He said that proposal was torturing the Zoning Ordinance. He directed the Board's attention to Section 305 and said that based on that section the Board cannot legally reduce the size of a lot. He wanted clarification of Section 302 as the proposal may meet the requirements of S@-1, but does not come close to meeting the "NP" requirements. He pleaded that the Board not gerrymander the zoning laws. He requested that the Board deny the proposal.

Later, Bill Coyle stated that annexing the more restrictive property to get a lot in a less restrictive district flies in the face of any preservation intent.

Dick Mackay said that it was all a matter of nomenclature. He said that although the Zoning Ordinance designates the area around Occum Pond as "natural", it is anything but natural. Occum Pond was created by developers. He said that it was dugout and is not now and was never natural. He said that the fish in the Pond and the vegetation around the Pond are not natural. He said that if anything, the area was unnatural and does not preserve anything natural. He ended by saying that from time to time the neighborhood has issues of substance with Dartmouth College, but that this is not one of them.

Kristine Foley said that the Town would be burdened by the monitoring requirements on the deed.

Vicki Smith thought the Town would be a happy recipient of a conservation easement on the whole "NP" area including the Pond.

Lisa Young, 2 Hilton Field Lane, suggested that the will that bequeathed the land to the College should be consulted regarding the wishes of the donor as to the use of the property.

Ellen Arnold had no knowledge of the restrictions that might have been part of the gift of the land to the College.

Susan Mansfield, 6 Clement, noted that the proposal is a merger of convenience. She did not think that the building lots were consistent with the preservation of Occum Pond. She did not see how it was possible to merge a nature preserve into a residential lot.

Iain Sim said that the theme is clear. What is intended (to create building lots) is contrary to the spirit of the land designated "NP". He thought that the bequeathing of land to the College should be investigated. He did not think that Section 305 applied to this situation.

Michael Mayor said that he was aware that deeds for land along the Connecticut River have riders that prevent tree cutting unless permission is granted by the Town Forester and College President. There are also maintenance provisions for a public foot path required by the deeds. He is not assured that 6 and 8 Rope Ferry Road should be created with lot lines extending into the "NP" district. He feared the unpredictable consequences of use that a future owner may put to the property.

Kate Connolly warned against creating a lot in two districts as it would be precedent setting. She also thought that the proposal did not respect the objectives of the Subdivision Regulations to preserve open land.

Judith Esmay noted that the Zoning Ordinance does not envision this situation: however, Town Counsel and Zoning Administrator both have decided that proposal is consistent with Section 302. She wondered about the possibility of public access to the "NP" portion of those lots.

Kelly Dent wanted to find reasons to support or not support the proposal in the Subdivision Regulations. She cited Section 105. She said that as Planning Board members, if the Board does not take action to preserve the character of the land, then she wanted more assurance that the character will be preserved.

Iain Sim said the proposed maneuver contravenes the guidance the Zoning Ordinance gives via Section 302 and the definition of a lot.

Ellen Arnold said that she understood the trepidation of the Board, but wanted the Board to keep in mind that the College's intention is to preserve the "NP" district and comply with the Zoning Ordinance. She said that a deed restriction could be crafted.

Iain Sim made a motion that was seconded by Michael Mayor to continue the hearing until July 7 at 7:30 PM. There was unanimous approval with Brian Edwards voting.

In the meantime, Ellen Arnold will prepare wording to adequately protect the "NP" land. She will have a draft ready by July 1 for inclusion in the Board's mailing and for the public to review.

Joan Garipay wants to be sure to get it right.

4. P2015-16 Submission of Application for Site Plan Review by the Trustees of Dartmouth College to install pre-manufactured 12'x32' storage shed for agricultural use at 104 Lyme Road, Tax Map 8, Lot 15, in the "RR" zoning district.

James Pike, representing Dartmouth College, described the project as placing a pre-assembled storage shed on a bed of crushed stone, behind the greenhouse at the Organic Farm. The Big Green Bus will be retired and no longer parked in that area. Access will be off the existing driveway. Power will be run from a building on the same lot.

There being no further questions, Michael Mayor made a motion that was seconded by Kate Connolly, to find the application complete with two waivers, elevation plan and survey plan. The Board, with Kelly Dent voting, voted unanimously in favor of the motion.

There were no comments from the public.

Iain Sim made a motion that was seconded by Brian Edwards, to approve the site plan. The Board, with Brian Edwards voting, voted unanimously in favor of the motion.

5. P2015-15 Submission of Application for Minor Subdivision by the Trustees of Dartmouth College to divide 12 Allen Street, Tax Map 33, Lot 89, in the GR-2 zoning district into two lots (creating lots of 24,100 sq ft and 15,060 sq ft).

Timothy McNamara, representing the Trustees of Dartmouth College, described the project as a simple minor subdivision to create two lots, each for a single family home plus accessory dwelling unit. Tim said that it was strategic for the College to create more faculty housing and that this location was perfect for that use. The ravine will be filled to create a lot with less topographic relief. Tim shared a little history about the lot. A person had excavated a cave in the side of the ravine and lived there for some time. Letters affirming the adequacy of municipal services and the ability to respond to an emergency call at that location were provided by Peter Kulbacki and Martin MacMillan.

In response to Nancy Carter's inquiry regarding the ability of the College to save trees on the lot, Tim said that the White pines had to be taken down, but select hardwoods would be preserved. Soil information is not needed since the new homes will be served by municipal sewer.

There being no further questions, Kate Connolly made a motion that was seconded by Michael Mayor, to find the application complete. The Board, with Kelly Dent voting and Joan Garipay abstaining, voted unanimously in favor of the motion.

There were no comments from the public.

Kate Connolly made a motion that was seconded by Michael Mayor, to approve the minor subdivision. The Board, with Brian Edwards voting and Joan Garipay abstaining,

voted unanimously in favor of the motion.

6. P2015-17 Submission of Application for Minor Lot Line Adjustment by South Street Downtown Holdings Inc., to annex 396 sq ft from 18 South Street, Tax Map 34, Lot 49 to 5 Sanborn Road, Tax Map 34, Lot 50. Both properties are located in the "D-1" zoning district.

Timothy McNamara, representing South Street Downtown Holdings, Inc., explained that the lot on the corner, 18 South Street, Map 34, Lot 49, had to be demolished following damage from frozen pipes. The size of lot at 5 Sanborn Road, Map 34, Lot 50, will increase by 396 square feet by annexing land from the corner lot. The plan is to demolish the existing house, now rented, to make way for a new home to be constructed for occupancy by a faculty member. The location is a good one; it is proximate to campus allowing the faculty member to commute to work easily on foot and allowing students to visit that faculty member at home. Tim thought that the corner lot would be used as a yard by the new family. In response to Nancy Carter's concern about the public use of corner lot as a pocket park, Tim thought that the western end of the lot could be left open for continued public use.

The 5 foot boundary adjustment is necessary to accommodate the house planned for faculty use. The new house will be served by the existing shared driveway at the north of the lot.

The 5 Sanborn Road property will not be developed for multi-family housing because the College needs single-family homes for faculty.

There being no further questions, Michael Mayor made a motion that was seconded by Iain Sim, to find the application complete. The Board, with Kelly Dent voting and Joan Garipay abstaining, voted unanimously in favor of the motion.

There were no comments from the public.

Michael Mayor made a motion that was seconded by Iain Sim, to approve the minor lot line adjustment. The Board, with Brian Edwards voting and Joan Garipay abstaining, voted unanimously in favor of the motion.

7. OTHER BUSINESS: There was no other business

8. ADJOURN: The meeting adjourned at 9:37 PM.

Respectfully submitted,
Vicki Smith