

UNOFFICIAL
As of 3/11/09

HOOKSETT ZONING BOARD OF ADJUSTMENT
MINUTES
Tuesday, March 10, 2009
HOOKSETT MUNICIPAL BUILDING
35 Main Street

CALL TO ORDER

The Chairman C. Pearson called the meeting to order at 7:00 PM

ATTENDANCE

Chairman, C. Pearson, R. Duhaime, Richard Bairam, T. Murphy Roche, D. Johnston, J. Levesque, R. Savoie, and J. Gorton, Town Council Rep.
Staff: P. Rowell, Code Enforcement Officer

APPROVAL OF MINUTES

February 10, 2009

R. Savoie motioned to approve the minutes of February 10, 2009 as presented.

Seconded by J. Levesque.

Vote unanimously in favor.

CONTINUED PUBLIC HEARINGS

ST. GERMAINE

Heron View Drive, Map 20, Lot 1-23

Special Exception from Article 18, Section E. for construction of a driveway which requires a wetland crossing that will impact 2,943 sq. ft. of forested wetlands.

Adam St. Germaine read his application into the record.

Abutter notification was confirmed.

Letters of support were received from the Conservation Commission and the Planning Board.

Planning Board expressed concern over a turn around for emergency vehicles.

A. St. Germaine stated that some type of turn around would be provided.

The Board discussed the driveway slope from the end of the town road should be no greater than 10%. The driveway must meet the Town's Development Regulations. There was also discussion regarding the Town's failed drainage swale that drains at the center of the cul-de-sac. The Board was also concerned that the driveway would be wide enough to get a fire truck to the house. There also needs to be a turn around for the truck. The applicant was directed to work with Fire Department.

C. Pearson asked the applicant if a drainage study was done. The applicant responded that Peter Schauer had done the study.

Open Public Hearing
None

Close Public Hearing

R. Savoie motioned to approve the request for a Special Exception from Article 18, Section E. for construction of a driveway which requires a wetland crossing that will impact 2,943 sq. ft. of forested wetlands for a single family dwelling pending DES approval and concerns from the Fire Department. Seconded by J. Levesque.

Conditions

Turn around provided for emergency vehicles
Driveway is built to accommodate emergency vehicles
Driveway permit will not be issued until a DES permit is approved.
Driveway shall be limited to one (1) single-family dwelling

Vote unanimously in favor

NANCY LANE

Nancy Lane, Map 25, Lot 21-2

A Special Exception from Article 5, Section B.3 to allow housing for older person residents on a 6.2 acre buildable area (units allowed=6.2 ac x 6 units per acre = 37.2 units). The applicant proposes three (3) separate 12 unit buildings. The second and third floors of the building will consist of living space with garage floor located beneath.

Greg Michaels presented and verified that the Board had the most current plan.

G. Michaels, attorney for Beaver Brook Development: This is a continuation of a hearing that started on December 2008 for a project to be built on Nancy Lane. This is a part of a four-step process. The first step begins at the ZBA. The new plan has changed from one (1) 36 unit building into 3 buildings which changes the look. The other parts are elements of the process. A site walk was done as well in mid December. We didn't go to the Planning Board because we had a concern over diminution of value, which is one of the special exception criteria. It was suggested and implemented that we get names of perspective appraisers that the Town has used in the past. That was given to us and Capital Appraisals was selected to perform an appraisal to look at if this proposed development would impact negatively on the surrounding areas. That was a key focus, based on my recollection on December 9th. Copies of that appraisal have been made available to the board. The report states there will be no diminution of value. Based upon that, we are here to show a slight change in the buildings and show that we can buy sewer capacity and Berry Hill Subdivision provided a letter stating we can hook up to the Berry Hill pump station to facilitate water service to this project. There are a number of planning issues that were brought up at that meeting, a number of abutter came forward with many planning issues including traffic, lighting, and blasting. As the board is aware, the Planning Board handles most of these issues. From the site walk, the next step is to

go to the Planning Board, we elected not to go to the board and take up their time pending the result of the appraisal. At this point, we are here to discuss any other concerns and we would like to go the Planning Board, do our best to move ahead and take up the project the board as per your regulatory scheme. We would then be back here to discuss the Specific Elements under the usual special exception criteria that you have under your ordinance. That is usually how it works.

C. Pearson: We need to have a joint Planning and Zoning Meeting.

J. Levesque: The ordinance states it is encouraged.

C. Pearson: We met with Planning a few month ago and both boards agreed that given the nature of this project, that would be a prudent step to take.

G. Michaels: That is fine and we accept that. Is it your plan that at that meeting, we go through a Planning Board type of inquiry and they make a recommendation to the Special Exception portion? That is a good idea.

C. Pearson: Is your appraiser present tonight?

G. Michaels: I plan to have him at the May meeting where you discuss the elements of the Special Exception. We are prepared to move ahead with a joint meeting. If you are going to have a joint meeting and take action, you need to advertise the meeting as a joint meeting. You may or not take action but I caution the board that it should be noticed as a joint meeting.

C. Pearson: For tonight, does the Board want to review the application at this time or wait until after the joint meeting. There was a question with Capital Appraisals that you might want to raise prior to the joint meeting.

J. Gorton: As I read the report, my understanding is we were looking for information that would be available once the review was done for an area that had already been developed and then the elderly housing complex came in and had been built and there were sale and marketing activity after that fact. To end up seeing if there was any diminution in property values. I may have missed it in here but as I read this report, it seems like it was, "This house is sold and this house is sold", and I don't see where anything's going to happen once Nancy Lane is developed. I thought we wanted to see information where the housing development had been built and then the elderly housing project came in afterwards and had already been established, and then sales of homes took place after the elderly housing development came on board. The way I read this report, he used property values on Virginia Court and in that neighborhood, and I'm not sure that is presenting a true picture of what may or may not happen once the elderly housing complex is developed in that neighborhood. Maybe I'm wrong on what I thought we were looking for but that is how I remember it.

G. Michael: I am not the appraiser, but reading his last sentence, it is the opinion that the evidence shows no diminution of value for the surrounding properties as a result of the requested Special Exception to allow elderly housing on this site as shown on the plan. I'm reading that he understands what the project is and what it would be. That is a quote and the question would best be directed to the appraiser.

C. Pearson: I agree, so could you go back to the appraiser and have that information available to us before the joint meeting.

G. Michael: So I understand this is more information regarding post construction diminution. Is that the focus?

C. Pearson: Yes.

G. Michael: I understand.

R. Savoie: Given the current economy, how are you going to justify what this might or might not do to the houses that are there given the economy. If they base their appraisal figures based on the town's assessment going back to the beginning of last year, that's all out of wack because of the dive in the real estate market that happened last July-August. I understand what Jim is saying but I don't know if we are going to get a true picture.

C. Pearson: The Board is in agreement to move this to a joint hearing and the applicant understands?

P. Rowell: Do you expect the Planning Board to start their review process through a TRC meeting prior to the joint meeting or do you expect them to listen to the applicant and then give an aye or nay on this proposal and then move forward with the TRC and the site plan review after the Special Exception.

C. Pearson: I think we want as much information as we can get. It's how the Planning Board wants to proceed.

P. Rowell: If you start going through the TRC process, the applicant's expenses go way up.

C. Pearson: We want the joint meeting, so normal procedure would be they would go to Planning Board then TRC. Or is it TRC prior to planning?

G. Michael: This is different because this is a different approach. They are not making a final decision, you are. They are just making a recommendation, as I understand it.

R. Duhaime: I would like to see some line of sight from the neighbors. I would like to see what this building would look like concerning how high it is. I don't know how they can do an appraisal if they don't know what it will look like from people's back yards that have concerns. I think when we did Mt. St. Mary's, they had done that for the

building in the back so that you can see from the road. They super-imposed the building on the plan and gave the line of sight so you could see what it looks like up on the hill.

C. Pearson: We ask that the applicant provide that.

C. Pearson: We will request a joint meeting be scheduled with the Planning Board and the abutters will be notified. The Zoning Board will pass the plans to the Planning Board.

***R. Savoie motioned continue to a joint meeting with the Planning Board, time and date to be set by the Planning Board. Seconded by D. Johnston.
Vote unanimously in favor.***

R. Duhaime requested a facsimile picture of how this building will look on the lot.

NEW PUBLIC HEARINGS
CHARLES & DEBORAH HOLT

313 Londonderry Turnpike, Map 25, Lot 39 and 39-1
Medium Density Residential

Variance from Article 5, Section A to allow certain limited commercial uses in a new building to be constructed on the property in a medium density residential district. Permitted uses would be limited to passive, low impact commercial uses including general, professional and/or medical office space, personal care providers and/or service companies such as mortgage companies or day care providers and similar low impact uses.

The applicant distributed additional information

The board discussed the application and the criteria on the request.

P. Rowell recommended that the case not be heard by the board because the application was not specific enough to make a decision.

C. Pearson: We need to review whether the application can be heard since the use is vague. We need to have specifics in front of us to make a decision. The information we have is it would consist of a 12000 sf building with 45 parking spaces. I don't know if that constitutes a complete application.

P. Rowell: I would like to make the Board aware that one of the abutters has brought in information. I was waiting until the Board made a decision on whether to hear the case to bring this forward. The first decision the Board must make is if the application is specific enough for the board to hear.

Ray D'Amante, attorney for the applicant: At this point, since there is no variance to use this property in a commercial sense, we cannot market it for that use. We don't have any tenants for the building. It is kind of the chicken and egg, what comes first. We are trying to propose classifications of reasonable uses, low impact uses, of this site. It is pretty specific to say, general office, professional office, or medical office. That is pretty specific.

C. Pearson: This is similar to Auto Wholesalers. They came in front of the Board and wanted a variance for zoning and we had no idea what they wanted it for. For us to grant

a Special Exception or a Variance, we need specifics of what it will be. It is our duty to review these in detail for the public to make sure we are making the right decision, given this, there is nothing here that will allow us to do that. I think in this case, you are coming to zoning to solve a long-standing problem but we don't have enough information to make that decision.

R. D'Amante: It is common to have a dialogue with the Zoning Board and get feedback. One thing we invite the Board to do is to give us some feedback on what you would like to see. For example, if we come back with an office use for the building, I would suggest it would be enough if we had a variance that said we could use it for general offices; medical offices, professional offices. Not that John Smith wants to put his real estate office in there because we can't get John Smith to the table. My brokers who are working hard on this property can't get an offer from anyone when they say, "we don't want to spend money on this to study it or consider it when we don't even know if we can do some". We have an interesting dilemma. When you look at this site, I'm sure you are all familiar with it. It is a residentially zoned site. One of the only ones north of the intersection along Route 28. Everything else is commercial or performance. When I use the word commercial in my discussion, it will include the Performance Zone because it is a pretty high intense commercial use. Those uses to the north greatly impact this site. The uses along Route 27, the landscaping business and the Dove Spa. The red house across the street has several big trucks parked there. There is other than purely residential activity around. This piece of land, which was in the past zoned commercial has since been taken from the commercial rolls and zoned residential. It is a tremendous dilemma for the Holts. They have owned this property since 1959. Having been there, and unable to respond to the transition around him, in the sense this property doesn't have a reasonable use any more. People don't look at this and consider it residential. They have so many other choices, even in a good market; no one was interested in this for residential. This is zoned as a buffer and sacrificed under the terms of the ordinance to the point where 100% of its usable characteristic and value is gone. That is a major dilemma. For years the brokers that have worked on this have tried to market it as residential without success. There is a letter in the packet from Susan Bruce. When they get to commercial, before people will make a commitment, they want to know that they can be there. We looked at this site as an interesting transitional source. If you are driving down hill from the intersection, in front of you is K-Mart and as you move forward there are a number of commercial uses on both sides of the street, all the way up to the intersection and continuing. If you turn around and come back, you will see, things are really open. They are very visible and visual. You see the Holt property all the way up to that light. It's not people's idea of what's residential. What I propose to do with this Board is come up with some kind of transitional uses. We are not saying let us put up anything because the impacts could be excessively great on the neighborhood. We're not looking for a store or a drive-in restaurant, or any of those kinds of activities that would be intense. We are trying to come up with passive classifications of use. We have said offices as a classification of use. Personal Care, that is pretty specific. What would that be; hair, nail salons, those types of studios, dance studios, we even have someone interested in putting a dance studio there but they can't foot the bill for all of this because they don't need the full site., small retail shops. In the MDR district the zoning ordinance

permits, by Special Exception a 3000 sf convenience store. There is an ordinance that recognizes that within this zone, some kind of activity of this nature is appropriate. If we were to ever propose that, we would come back to you and say we have a convenience store for 3000 sf but that doesn't sustain the site. You need to put in a few more things. We would ask the Board to give us some feedback. We would like it right now.

P. Rowell: You need to decide if this application is specific enough and whether you want to hear the application or not. I don't believe we have enough specific information to make a decision. We also have a huge package from the abutters so if you are going to continue with this application tonight, you should give the abutters an opportunity to state their side. You need to decide if you are going to continue to hear this application or request the applicant come back with specific criteria like a seven (7) seat hair salon.

R. Savoie: I have a problem with that. We have had plenty of people come in here with businesses that say they will put a building here with tentative tenants. You don't know what kind of business is going in but you know the type of building and how many parking spaces there will be.

P. Rowell: Is that for a commercial zone or a residential zone? This is a residentially zoned.

R. D'Amante: I do ask that since we did present our position that you pass out the information submitted by the abutter as well.

C. Pearson: We are going to stop all discussion at this point. Can we get more guidance on this? I understand we have already received some input from counsel, but I feel with the applicant represented by their attorney, the abutter represented by their attorney, we should have our attorney present as well.

T. Murphy Roche: This information, which is being presented tonight, needs to be submitted to the Board prior to this meeting. This does us no good to receive this tonight.

R. Savoie motioned to continue to April 14th and request that counsel be present at the April 14th meeting to advise the board on this application. Seconded by R. Duhaime. Vote unanimously in favor

The Board will meet with counsel at 6:00 pm on April 14 and the Board request that the applicant submit all information 7 days prior to the meeting.

ADJOURNMENT

The chairman declared the meeting adjourned at 8:30 pm.

Respectfully submitted,

Lee Ann Moynihan