

Unofficial

HOOKSETT ZONING BOARD OF ADJUSTMENT

Tuesday, August 9, 2011

MINUTES

CALL TO ORDER

R. Duhaime called the meeting to order at 7:00 pm.

ATTENDANCE

R. Duhaime, R. Bairam, G. Hyde, Alternates, P. Denbow, Michael Simoneau, and Gary Lee. Town Council Rep. J. Levesque.

Staff: P. Rowell, CEO

APPROVAL OF MINUTES

July 12, 2011

R. Bairam motioned to approve the minutes of July 12, 2011 as presented. Seconded by M. Simoneau.

Vote unanimously in favor

Alternates: M. Simoneau and P. Denbow will be voting

CONTINUED PUBLIC HEARINGS

FALCON BROOK

49 Mammoth Road

Map 45 Lot 33

A Variance Article 5:C.3.b to allow the construction of 20 freestanding single family homes where a density of 14 units is allowed.

E. Bussiere: When we were before the Board last month, the ZBA requested that this plan be presented to Planning for their input. A positive recommendation on the lot was received.

R. Duhaime: This is a unique single family project which will be condominium owned.

E. Bussiere: The Berry Hill project is similar and was approved under a site plan process. We are proposing the same type of development and if we did +55 we could have 42 units vs. 14 allowed.

P. Rowell: I was asked to review and come to a determination. I stated that this should be looked at from a different avenue. I see this as a single family subdivision. Our ordinance talks to three types of building as multi-family. One is apartments, one is condominium and a third is a building with 3 or more units. I think they were using condominium as a building like Mt. St. Mary's that is one building as condominiums. Condominium is a form of ownership. We have a single family site plan that will be built and have common

land ownership. We need a variance from the general provisions that say you can have only one dwelling on a single lot. You can then review this plan from that aspect. The other thing discovered was the RSA talks to a condominium project that must be able to be subdivided and where does this project meet all the subdivision regulations?

E. Bussiere: We started down this road after talking to Dan Tatem. A multi-family lays out an apartment, a condominium and a building of 3 or more units. It is in your definition. After Dan Tatem looked at this he said this applies. We didn't look at the intent of the definition, it just says condominium.

R. Duhaime: I read the definition as 3 or more units in an apartment, a condominium, or a building. We are looking for a solution because this doesn't fit anywhere in the ordinance.

E. Bussiere: The ordinance doesn't fit anywhere except in the Multi-family dwellings because it talks of condominium there. Article 3:H does represent this because it is for single or two-family house lot. The drafters of the ordinance want to say this applies to any development of 30 or 40 units but it doesn't.

P. Rowell: What we are looking at is a single family or duplex house lot. If they came in tomorrow they could build a single family or a duplex on that lot. They are asking for twenty single families on that lot. They are allowed multifamily which is allowed but it must be 3 units or more in a building. We are not concerned with the type of ownership. We are only looking at what the ordinance is allowed.

R. Duhaime: Why does it say except for clustering single or multi-family?

P. Rowell: We could do multi-family but they don't have 20 acres required for cluster. They could get a variance but I don't think the area will work.

M. Simoneau: MDR vs. PUD. Can you enlighten? I have seen similar projects that were PUD in Manchester. There is one in Manchester behind Hannaford which has single family.

P. Rowell: We are not concerned with the type of ownership.

E. Bussiere: We will review this with Planning under site review not subdivision because we are not subdividing.

R. Duhaime: The Planning Board addressed the increase in density. We are looking at increasing the density of single family and I think that is what you need a variance from.

P. Rowell: I have seen over 55 projects that have been mixed duplex and single family but if you go to the elderly section, it will address multi-family and density. In the MDR the density is different. The setbacks are less for +55.

R. Duhaime: You are basically looking to put 20 single family homes on a lot where you are allowed one (1) single family home in a residential district.

G. Hyde: What if they asked for a 20 unit building?

E. Bussiere: Then the abutters would not be happy and that is why we came up with this plan.

G. Hyde: I prefer this plan because you're putting single rather than multi-family.

P. Rowell: I don't see multi-family buildings; I see 20 single family dwellings. Request your variance using that criteria and let the Board make their decision.

P. Rowell: I'm making a determination that in the definition, they put apartments, condominium and building with 3 or more was describing multi-family and all would have more than 3 units.

G. Hyde: I disagree with your interpretation.

P. Rowell: The applicant can appeal my decision, or the Board can say that they will move forward with the requested variance.

E. Bussiere: We want a variance to increase the multi-family dwellings from 14 to 20.

D. Maguire: There is a lack of lot lines. This is similar to a subdivision without separate lots. When we sat down with Dan Tatem, we came up with this a multi-family condominium development.

M. Simoneau: What is the typical square footage of the units?

D. Maguire: I think it is about 1500. The footprint is 20 x 50 with garage space. We have been leaning towards two bedrooms but the market will dictate. The intent was to stay similar to the surrounding properties.

P. Denbow: What is the buffer from the abutting property?

D. Maguire: I believe it is 20 to 30 feet. They are all within the setback. With this type of development, since there is no individual ownership, you have control of the land. The closest setback is 25 feet.

Open Public:

None

Close Public

R. Bairam: Will this road be private and will they get any town services?

E. Bussiere: It will be a private road and the fire department likes the plan with the hammerhead. The only concern was for hydrants.

G. Hyde motioned to grant the construction of 20 freestanding single homes where 14 are allowed. Seconded by R. Bairam.

Vote 4 in favor.

BLAKE

26 Londonderry Turnpike

Map 49, Lot 47

A Special Exception per Article 11:B.2 to allow a Commercial Use (2 Story office building) in an Industrial Zone.

J. McCourt distributed a plan which proposes a 3 story building with only 2 stories being occupied. This plan shows a conceptual of the building which has not been finalized until approval is received from the Zoning Board.

Open Public

None

Close Public

M. Simoneau motioned to approve a Special Exception to allow a 3 story Commercial building in the Industrial zone. Seconded by R. Bairam.

Vote 4 in favor

NEW PUBLIC HEARING

TNT PALACE GROUP

1379-1385 Hooksett Road

Map 18, Lot 30, 31, 31-A

A Variance from Article 10-A Section E to permit redevelopment offering a mixed-use approach with general commercial/retail office space along the Hooksett Road corridor and apartment-style residential units located in two (2) relocated and reconfigured buildings to the rear of the parcel.

Ari Pollack representing TNT Palace Group, Dave Garvey representing TNT, Linda Davis manager of existing home park and Peter Holden, Engineer.

This is located adjacent to the former Peterbrook Motel which was subject to a similar request to redevelop that property. Currently the applicant's property is home to Park Place Motel, a Car dealership, and single mobile homes totally 52 units. Many are in disrepair. In addition, the existing septic is in uncertain condition and is headed for failure and considering the scope to bring this to performing level, is cost prohibited. The proposal is to raise the property and propose a complete redevelopment with mixed uses. The proposal offers commercial improvements consistent with the Performance Zone and two apartment buildings with 24 units each for a total of 48 units to replace the existing 52 units. This will be new construction LEED certified. The commercial retail will be

added to the front of the property consistent with the Performance Zone. The plan is conceptual for the purpose of this application and shows the benefit of shared utility and parking. To accomplish, this we need a variance to allow residential uses in the Performance Zone. It now has a mixture of commercial and industrial and does not allow residential. Since we are looking to wipe the slate clean, we are looking for the variance. Our conclusion on a prior application was to handle this mixed use under a variance from Article 10A. We are asking for a variance under Article 10-A for a mixture of uses, specifically residential.

Criteria of the application were read into the record.

As an aside:

State law regarding displacement states that the land is allowed to propose change to use and if embraced and approved, there is a substantial notice period which must be given to tenants of 18 months or more including relocating owned units.

That notice period has not even yet begun. This applicant will do nothing less than the letter of the law and this landlord has always been involved with the tenants.

No one's interested are served by allowing a property to under-perform. The Performance Zone talks about giving an applicant the latitude and flexibility within the corridor.

This application was referred to the Planning Board for commentary and the Planning Board agreed with the concept. A memo so stating has been submitted.

P. Denbow: What type of commercial to you expect?

A. Pollack: We are proposing permitted use under the Performance Zone. We are not looking for any relief from the allowed Commercial Use. I would expect professional offices or banks; something low impact and not Industrial. Possibly an office type use that could co-exist with residential in the rear. We have no specific tenants identified.

P. Holden: There are two 24 units each with 2 parking spaces per building. We worked backwards to determine the size building that would fit.

A. Pollack: Some units are uninhabited but we are looking to replace one for one.

P. Denbow: How is this different from the Peterbrook plan?

A. Pollack: I haven't been involved recently with the Peterbrook, but this will disrupt the existing tenants and income flow where Peterbrook was vacant.

Open Public:

Abutters:

A letter submitted by Mrs. Martineau was read in to the record.

Open Public:

Darlene Aubert, 10 Dan Ave: I was told that mobile homes over 10 years old cannot be moved. My trailer is a 1987 so if this goes forward, where will I go? No other park will take my home. I called a few places and they will not legal move anything over 10 years.

P. Rowell: Homes pre 1972 which do not carry a HUD label will not be accepted by other towns. Most carriers will transport homes that are structurally sound.

Darlene Aubert: So If another municipality will not take our homes, where will we go? I make minimum wage, and can barely afford the \$300 rent. Where will we go?

R. Duhaime: Every land owner has rights. In this instance, we don't have any jurisdiction with regard to tenants. That becomes a State issue. It sounds like they must give you at least 18 months' notice to move. I don't know what else this Board can do.

Gary Lee: If they built something that did not need a variance, this problem would still exist.

Richard Blaine, 24 Palace Ave: I bought my trailer eight (8) years ago and it is a 1987 and with my disability can I afford to move that trailer or anything? I get \$622/month to live on and so you are telling me I should grab a tent and go live there. No one cares.

R. Duhaime: I live here and I volunteer my time. I don't own the park and they have the right to use their land.

Richard Blaine: I've been there and paid my bills. How would you feel if someone came in and took your house? What would you have us do, go live under a bridge? There has to be a solution to this.

G. Hyde: The difference is real property vs. personal property. The land is real property and your trailer is personal property.

Richard Blaine: I don't know what to do. What if they took your house to put up a mall? Why don't they offer the residents low income rent so they can move there?

Josephine Hayes, 23 Palace: I representing the other tenants that couldn't be here. I'm 81 years old and there is another person in the park that is 82 years old. Neither of us can move our homes. I could go to elderly housing but I'm not ready to give up my independence. I moved here 24 years ago and planned to live there my whole life. Do you honestly think, the Planning Board Director thought this would be a better way to get younger people in the area? Have you thought about the cost for educating these children? I pay my taxes and I go to work and I spend my money in Hooksett and I just don't think this is fair. You should stop and consider that we have rights. Let him do his commercial thing in the front but let us stay in the rear. I wish you people would stop and listen and think because if you have 48 units with 2 – 3 children where are you going to put them. Will you need a new school? I don't think you people were listening.

Ron Clark, 20 Dan Avenue: My parents have lived here for 34 years. My father lost his sight and had to move to Manchester. My father passed away at the age of 92. My mother had to move back in with me. I took care of her for 18 years. Since then I have become disabled from the stress. I was a truck driver. Now they want to put me out of my home. Since my parents live there, they have had multiple owners. They say it is run down. Why is that? The owner does nothing. They keep selling the property with failed septic. I've been mowing the lawn because they said the lawn mower got stolen. Let them build their commercial property out front and leave us alone. We will try to get a loan so we the tenants can buy the park. You want me to go live under a bridge. I'm also going after Joy, the Welfare lady. I was told by Joy that she wouldn't help because I live in Park Motel. They are supposed to help with basic living expenses. There will be charges filed.

R. Duhaime: We are looking for input and we hear you.

R. Clark: I was there 18 years. You know why this place is run down because of the slum manager.

Close public

A. Pollack: The issue before this Board is to allow a mixed use for this commercial property in the Performance Zone.

P. Rowell: Formerly I worked at the Community Loan Fund which is an organization that helps people in this situation. I expect a representative will be getting in touch with these people. There are lots available in Allentown if they can be moved. There were loan programs where they could offer loans to people to make the move. Also these homes are real property not personal property.

A. Pollack: It is a kind of realty interest and a deed because it is fixed to the land. It is a specialty item because it is affixed to the land. I do know the 18 month period is to allow time to resolve those issues.

P. Denbow: I do understand that if this were all commercial, you could move forward without coming before this Board.

R. Duhaime cautioned making a decision on such an emotional issue without having time to weigh the issues.

A. Pollack: I don't know what more time would serve. It would just allow these issues to become more emotional. When they go to the Planning Board, there will be opportunity for public issues to be discussed.

G. Hyde motioned to allow the redevelopment of not to exceed 48 residential units with 24 residential in each building. The second residential unit not to be built until a Certificate of Occupancy is issue on the second commercial building and will include a

*fence to be constructed along the rear property line as requested along Map 26, Lot 18 owned by Mrs. Martineau and must meet all of the development regulations.
Vote 4:0:1*

OTHER BUSINESS

P. Rowell reported that the issues at the Heffron Property are being addressed by the owner.

ADJOURNMENT

R. Bairam motioned to adjourn at 9:23 pm. Seconded by M. Simoneau.

Respectfully submitted,

Lee Ann Moynihan