

**Official**

**HOOKSETT ZONING BOARD OF ADJUSTMENT**

**Tuesday, April 10, 2012**

**HOOKSETT MUNICIPAL BUILDING**

**35 Main Street**

**MINUTES**

**CALL TO ORDER**

C. Pearson called the meeting to order at 7:06 pm.

Pledge of Allegiance

**ATTENDANCE**

D. Pare, R. Bairam, C. Pearson, R. Duhaime, P. Denbow and J. Levesque

Excused: G. Hyde and M. Simoneau

Absent: Gary Lee

**APPROVAL OF MINUTES**

March 20, 2012

***R. Bairam motioned to approve the minutes of March 20, 2012. Seconded by R. Duhaime.***

***Vote unanimously in favor***

**CONTINUED PUBLIC HEARINGS**

**FALCON BROOK**

**49 Mammoth Road**

**Map 45 Lot 33**

- A Variance from Article 8 Section E.9 of the Zoning Ordinance to permit a Conservation Subdivision on 17.12 acres where 20 acres is required.  
**Granted 3/20/2012**
- A Variance from Article 8 Section D.5 of the Zoning Ordinance to permit a unit density of 21 units where 17 units are allowed.  
**Continued 4/20/2012**

**Attorney:** Three of the four requests for variances were already granted. We are requesting a variance for 21 units where 17 are allowed. I understand you received additional information that you requested. Mr. Maguire will address specific issues regarding the design.

D. Maguire: It seemed the main concern at the last meeting to execute the last remaining variance was the design and square footage of the proposed housing units. In our submission, we are proposing similar dimensional layouts and the pictures show these are clearly not intended to be trailers or modular homes and

will fit in well with the surrounding properties. I hope this is what the Board was looking for.

Attorney: I will summarize the criteria for obtaining the hardship. Much analysis like the frontage and the distance between the buildings were previously granted. What I submitted a moment ago was a letter drafted in 2011 by an appraiser. Last March the same applicant proposed 28 multi-plex units and an appraiser was consulted and stated there would be no negative impact for that configuration. Here, there are fewer units, not in 4 unit structures, so there is no reason to believe the residential character will have a diminutive effect. The public interest and spirit of the ordinance go hand in hand. This is a residential neighborhood and the question is what is legally permitted, which is 17. The request for 21 units is consistent with the ordinance. The homes are stretched across the property and with the total acreage; it is consistent and an appropriate use of the property. Substantial justice is subjective analysis. The question is in light of the fact to get to that configuration and stretch across the two wetlands, is it a just result. The hardship deals with a unique characteristic that is burdensome to deal with. We argue that the two crossings make it difficult to get to the 17. You have to cross the wetlands and to justify those crossings you need to get to the number. The applicant has submitted all the information you need and we are here to address questions or concerns.

R. Duhaime: I'm not clear how this is in the public interest?

Attorney: The question is whether going from 17 to 21 is contrary to the public interest and not is it in the public interest. There are six (6) abutters that won't even see the back area. The additional 4 units are located where the abutters won't see them, so I can't understand how this could be contrary to the interest.

R. Duhaime: If there were no wetlands and you divided it like a normal subdivision, you wouldn't have that many units. I don't understand and I don't agree with your explanation. In a Conservation Subdivision, you should get a more country, spread out feel.

C. Pearson: We struggled with the diminishing of property values and that is why we asked for additional information and benefit the public interest in going from 17 to 21. This is the one we struggled with. We are having a hard time feeling strongly that you are right.

D. Maguire: I brought a slightly revised concept within the same parameters. I know you were concerned with the cookie cutter look. (Handouts were distributed) This is conceptual but there is the ability to be flexible.

R. Duhaime: This is what I was looking for. I was looking for a more rural character like what is on the other streets with different houses and different driveways.

D. Maguire: We were trying to minimize further design effort to minimize the cost. We are looking at two to three different style house layouts. You will not get a cookie cutter type of development and this will fit in the surrounding development.

Open Public – Abutters

Dan Blais, 34 Castle Drive: When we were here last month, we were concerned with minimize lot size and further restrict additional units and we are not talking about additional units. Conservation Subdivision preserves land and leaving large tracks of open space and they pushed it further to the back and by the time they put in the drainage it will look a lot different. This does not preserve the vernal pool. Variance, there is no fair and substantial relation between the use and the ordinance. Can they reasonably use the property and the answer is yes. They have to go across the second crossing to get to the sewer so they have to cross anyway. No one is going to do 1700 s.f. homes 20 feet from each other. They will be starter homes and that is fine but call it what it is. I can't see how this is reasonable to increase the density because we want more.

Peter, 36 Castle Drive: I just echo what Mr. Blais said with the sewer and the number of units. It has been brought up numerous times.

Attorney: I understand the planning Board's job is to deal with the drainage and the vernal pools.

C. Pearson: You should show how the drainage will impact the open space and the use of the land. With Conservation Subdivision, we need to know where the useless land is.

D. Maguire: There are multiple options for dealing with drainage. You can minimize the size of ponds if you put infiltration systems on the roofs of the houses. We had a larger development with the 30 workforce housing units and to clarify, that development went all the way back to "here". In that development we had one detention pond and another pond in another area. I can't tell you exactly without designing this layout what we will have but at the planning level, if these are concerns, we can look at multiple options including infiltration.

D. Blais: If this is going to be dealt with at Planning, let's not tie Planning's hands by sending them 21. Send them 17 and let them come back if they need to.

D. Maguire: We are meeting the open space requirements. In fact, 75% of the parcel is open space and only 50% is required. This speaks to the fact that this isn't an overly planned design and if at Planning the drainage limits the units, we can lose one unit. This is only the first step.

R. Duhaime: With Conservation, we are supposed to be reducing impact, so if we reduce the units, we reduce the impact. The infiltration would reduce that impact. Will you agree to that?

D. Maguire: We can absolutely agree to use recharge.

D. Blais: We don't know the depth of bedrock and there is already a groundwater monitoring property adjacent to this property.

D. Maguire: I think there is the ability to infiltrate on this site. You can specify the material and the infiltration rate. We will meet the state requirements for drainage.

P. Madison: If detention ponds will be installed, will that be open space or is it supposed to be undisturbed.

M. Labonte: I would consider detention pond constrained.

Close public

Criteria:

*The proposed use would not diminish surrounding property values:*

C. Pearson: We asked the applicant to give a rendering of intent to build. In the applicant's letter, he gives six (6) options and the owner will consent to any reasonable restrictions. He did say that properly crafting this would be a difficult task. I agree if we say it will diminish surrounding property values, we need to consider the number and type of buildings they will build. If you are in favor, we need to discuss contingencies, if you are leaning against, it is a moot point. I think we need to give a strong recommendation that they keep to what was proposed.

*The use is not contrary to the spirit of the ordinance:*

R. Duhaime: I think 17 is allowed, why can't he build 17. I don't think he has proven the case that he needs 21.

D. Pare: I don't think those 4 units are going to hurt anyone.

C. Pearson: I can see where you say it doesn't hurt, but I agree with Roger that it is not going to benefit the public interest.

C. Pearson: It is a condominium project so it is a lower impact.

P. Denbow: I would have more problems if it was on the front part of the lot but it doesn't have as great an impact on the back of the lot.

*Granting the variance would do substantial justice:*

R. Duhaime: I think this is the best plan so far.

C. Pearson: I think one recommendation is that we should restrict the style and better house will benefit the public.

*Granting the variance would be of benefit to the public interest:*

C. Pearson: I have no problem with this.

R. Duhaime: If you are going to minimize the impact, the fewer units are less impact. If you can offset it with infiltration, it will be less contrary but that is a planning issue.

C. Pearson: We can make a recommendation that they do an infiltration system.

*An unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.*

P. Denbow: I'm undecided on this issue.

C. Pearson: They can build 17 units.

D. Pare: If you can make it with 17 and 4 is a bonus, I don't see the hardship.

R. Bairam: I don't think 17 can do it so I see the hardship. It would be a waste of the property to not do the other 4 units.

R. Duhaime: It falls on them to prove the hardship and I don't see the hardship. The economy changes and values go up. That isn't our job. I don't think they can prove that the hardship is those 4 units.

P. Denbow: Where are the utilities coming in?

D. Maguire: Sewage is being brought in from a pump station on Castle Drive. There is a big difference between a wetland crossing for a road and a crossing for a sewer line.

- ***R. Bairam motioned to grant the Variance from Article 8 Section D.5 of the Zoning Ordinance to permit a unit density of 21 units where 17 units are allowed. Seconded by D. Pare. 2 opposed 3 motion fails. Vote 2:3. Motion fails due to the fact that the applicant has failed to meet the requirement of hardship to increase the units from 17 to 21.***
- A Variance from Article 8 Section G.2 to permit the construction of a condominium development which is by definition a single lot, without having to

adhere to the minimum frontage requirements of 50 feet as stated in the ordinance.

**Granted 3/20/2012**

- A Variance from Article 8, Section G.6 to permit the construction of freestanding units with a minimum separation of 30 feet where 40 is required.

**Granted 3/20/2012**

**MANCHESTER ANIMAL HOSPITAL**

**1129 Hooksett Road**

**Map 41 Lot 11**

**Performance Zone**

A Variance from Article 10-A:E of the Zoning Ordinance to allow a residential use within the Performance Zone for an apartment to be located in the basement of the property to be occupied by an employee of Manchester Animal Hospital.

*R. Duhaime motioned to continue the public hearing to May 8<sup>th</sup>, 2012. Seconded by R. Bairam.*

*Vote unanimously in favor.*

**CADORETTE/MCFARLAND**

**455 West River Road**

**Map 8 Lot 48-1**

**URD**

A Special Exception from Article 5-A:B to allow a two-family dwelling within the Urban Residential District for the addition of a basement apartment within a single family unit.

Nathaniel Cadarette and Lindsay McFarland were present to answer any concerns or questions regarding their application.

C. Pearson: A site walk was conducted at the property on March 26<sup>th</sup>.

Open Public:

No comment

Close Public

*R. Bairam motioned to approve the Special Exception from Article 5-A:B to allow a two-family dwelling within the Urban Residential District for the addition of a basement apartment within a single family unit. Seconded by P. Denbow.*

*Vote unanimously in favor.*

**NEW PUBLIC HEARINGS**

**GRANITE STATE AUTO SALES, INC.**

**1346 Hooksett Road**

**Map 25 Lot 6**

A Variance from Article 19:D.9 to permit the spray rinsing and repairing of automobiles in the Groundwater Resource Conservation District in connection with the operation of an automobile sales, service and repair facility.

Attorney Griffin representing the applicant Paul Vrusho: Mr. Vrusho wants to operate an automotive sales facility. Automotive sales and repair are allowed in the Performance District but since it is in the Groundwater Protection District, repairs and car washing is not allowed.

When we met with Mr. Labonte and Mrs. Moynihan, there were concerns with salt and therefore we have agreed that during the winter months Mr. Vrusho agrees not to rinse the cars. Repairs are limited to cars being sold and no oil changes.

Requirements for granting the variance. (read from application)

The Conservation Commission met and voted on April 5<sup>th</sup> to support this request with the conditions stated earlier.

P. Denbow: This was a used car lot before. Where would the detailing be done?

P. Vrusho: We will do alternators, starters, and small repairs to our own cars. I will detail them at one of my other facility. I will take my car to jiffy lube for oil changes. We keep a few cases of oil and transmission fluid to add but not change.

R Duhaime: Is this a nightmare to enforce?

M. Labonte: If you grant the variance, you must be specific to what is allowed with regard to the detailing and disallowing the use of acids.

C. Pearson: We understand that the enforcement issue and Conservation may not.

C. Pearson: I want to see how the spills will be handled as well as the waste. That way we have a good understanding of the property containment of all fluids.

M. Labonte: There is a floor drain that has a separate tank. They have a permit of this tank and there are procedures for maintaining that permit.

C. Pearson: You need to understand that we are not just granting you this variance; we are approving this for the property. Did you present a plan to Conservation indicating where the spraying would be done?

R. Duhaime: Do you have any fueling on site?

P. Vrusho: No.

C. Pearson: I'm concerned with the repairs and what that opens up. Part storage, is that going to be an issue?

C. Pearson: I'm concerned with the enforcement.

Open Public  
Close Public

***D. Pare motioned to grant the Variance from Article 19:D.9 to permit the spray rinsing and repairing of automobiles in the Groundwater Resource Conservation District in connection with the operation of an automobile sales, service and repair facility with the following conditions:***

- *Use of water only; disallowing detergents, oil, or acids.*
- *Small repairs only. No transmission, engine work or oil changes.*
- *No rinsing or washing in the winter.*
- *Must adhere to the specific provisions in groundwater protection district that limit storage*
- *Limit repairs to own vehicles and cars within the warrantee period.*

***Seconded by R. Bairam.***

***Vote 5:0 motion carries.***

From May 2012 to August 2012, the Zoning Board will meet at 6:30 pm.

***R. Bairam motions request a letter drafted to notify the Council of the consistent request a new alternate member be appointed to replace Gary Lee who has been unable to attend the meetings. Seconded by R. Duhaime.***

***Vote unanimously in favor.***

### **ADJOURNMENT**

Chairman Pearson adjourned the meeting at 8:45 pm.

Respectfully submitted,

Lee Ann Moynihan