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5 **Stratham Planning Board**
6 **Meeting Minutes**
7 **October 17, 2012**
8 **Municipal Center, Selectmen's Meeting Room**
9 **10 Bunker Hill Avenue**
10 **Time: 7:00 PM**
11

12
13 **Members Present:** Mike Houghton, Chairman
14 Robert Baskerville, Vice Chairman
15 Bruno Federico, Selectmen's Representative
16 Tom House, Alternate
17 Mary Jane Werner, Alternate
18 Christopher Merrick, Alternate
19

20 **Members Absent:** Jeff Hyland, Secretary
21 Jameson Paine, Full Member
22

23 **Staff Present:** Lincoln Daley, Town Planner
24

25 **1. Call to Order/Roll Call.**

26 The Chairman took roll call. The Chairman asked Mr. House and Mr. Merrick if they would be
27 voting members due to the absence of Mr. Hyland and Mr. Paine. Both members agreed.
28

29 **2. Review/Approval of Meeting Minutes.**

- 30 a. May 16, 2012 (Amended)
31 b. September 5, 2012
32 c. September 19, 2012
33

34 Mr. Daley explained that due to the appeal involving the 70 Winnicutt Road 2 lot subdivision
35 development, more detail had been requested for the May 16, 2012 minutes. Mr. Baskerville
36 made a motion to approve the minutes of May 16, 2012 (Amended). Mr. Merrick seconded.
37 Motion passed unanimously. Mr. Daley recommended reviewing the September 5, 2012
38 minutes, but leaving the September 19, 2012 minutes until the next meeting. Mr. House made a
39 motion to accept the September 5, 2012 minutes. The motion was seconded by Mr. Baskerville.
40 Motion carried unanimously.
41

42 **3. Public Hearing(s).**

- 43
44 a. **Retail Management & Development, 881 East Street, Tewksbury, Massachusetts, 01876**
45 **for the property located at 27 Portsmouth Avenue, Tax Map 8 Lot 2.** Public Hearing to

1 discuss a waiver request from the Stratham Site Plan Review Regulations, Section 4.5.5 to
2 extend the approved Site Plan Review permit for the redevelopment of a Market Basket
3 supermarket and attached/detached retail space.
4

5 Mr. Jeff Kevan from TF Moran introduced himself. He explained that the site plan was
6 approved in 2008 and extended by the Board in 2011. Market Basket still wants to keep its
7 approvals to redevelop the site or renovate the store. There is a current Alteration of Terrain
8 permit and the well and septic permits are still current although they are refiling said permits
9 seeking extensions. Mr. Kevan said they are basically asking for a continuation of the site
10 plan approval currently on record with the Town of Stratham.
11

12 Mr. Merrick asked if Market Basket currently has a sprinkler system. Mr. Daley said they
13 may have the system installed, but they don't have a water source for it. Mr. Merrick asked
14 if Market Basket wanted to install a cistern. Mr. Kevan said it isn't something they feel they
15 could put in as it wouldn't meet current codes. Mr. Merrick asked if they had at least looked
16 at what size system they might need. Mr. Kevan said he knows they have looked at it, but
17 does not know the size.
18

19 Mr. Daley said that this is the second waiver request requested by the applicant. He then
20 proceeded to provide a summary of the history to Mr. Merrick. He went on to state that
21 Market Basket would like to wait until water and sewer are available along Route 108. Mr.
22 House asked if Market Basket would be asking for extensions every five years. Mr. Daley
23 said he couldn't answer that question right now.
24

25 Mr. Daley said that as part of their package, there was an inspection letter from the State Fire
26 Marshall's office dated 2003. A number of concerns/violations were listed. The major one
27 concern cited was the lack of a water source for the fire suppression system. Fire Chief
28 Cook provided that information to Mr. Daley this afternoon.
29

30 Mr. Kevan said that Market Basket is pursuing other avenues, but the preferred option is to
31 wait until Stratham can connect into Exeter's water source. Mr. Daley said that Market
32 Basket have been very forthcoming in their desire to pursue this store and look at alternatives
33 for the required water source.
34

35 Mr. Houghton opened the meeting for public comment. Hearing none, _____ made a motion
36 to close the public hearing, seconded by _____. Motion carried unanimously.
37

38 After some discussion by the Board, Mr. Baskerville made a motion to grant another one
39 year extension. Mr. Merrick seconded the motion. The motion was carried unanimously.
40

- 41 b. **Makris Real Estate Development, LLC., 11 Wentworth Terrace, Dover for the property**
42 **located at 32 Bunker Hill Avenue, Tax Map 9 Lot 49, Laurence and Debra Foss, 30**
43 **Bunker Hill Avenue, Tax Map 9 Lot 50, and Town of Stratham, 28 Bunker Hill Avenue,**
44 **Tax Map 9 Lot 51.** Public Hearing to discuss a Lot Line Adjustment application that will
45 transfer .4346 acres to Tax Map 9 Lot 51 and 1.5381 acres to Tax Map 9 Lot 50 from Tax
46 Map 9 Lot 49.

1
2 Mr. Donahue, attorney for Makris Real Estate Development LLC. introduced himself, Jeff
3 Kevan from TFMoran, and co-applicants Laurence and Debra Foss and the Town. He
4 explained that there had been discussions amongst the parties to reach a settlement and avoid
5 the appeal process. After much discussion, a settlement was reach between the applicant,
6 Laurence and Debra Foss, and the Town of Stratham to address concerns involving specific
7 elements of the conditionally approved subdivision. Mr. Donahue continued that the
8 settlement agreement allows the parties to proceed with the lot line adjustment plan and
9 effectuate some other details.

10
11 Mr. Donahue suggested that the Board revisit the application following the public meeting
12 discussion for the amended subdivision plan. He explained that the lot line adjustment plan
13 and proposed amended subdivision plan are connected. The Board would benefit by
14 explaining the purpose and intent of each and how they relate to on another. Mr. Daley
15 agreed with Mr. Donahue and suggested that the Planning Board accept the lot line
16 adjustment application as complete and then open the public hearing followed by opening the
17 public meeting about the subdivision amendment.

18
19 Mr. Baskerville made a motion to accept the application as complete. Mr. Federico seconded
20 the motion. The motion was carried unanimously.

21
22 Mr. Baskerville made a motion to open the public hearing. Mr. Federico seconded the
23 motion. The motion was carried unanimously.

24
25 Mr. Houghton asked if any abutters had an objection to moving to the public meeting. Mr.
26 Malcolm McNeil agreed it made sense to go to the public meeting.

27
28 In order for the public meeting to begin, Mr. Baskerville made a motion to suspend the public
29 hearing. Mr. Federico seconded the motion. The motion was carried unanimously.

30
31 **4. Public Meeting(s).**

- 32
33 a. **Makris Real Estate Development, LLC., 32 Bunker Hill Avenue, Tax Map 9, Lot 49.**
34 Preliminary Consultation – Subdivision Amendment to the approved twenty lot Residential
35 Open Space Cluster Subdivision, property located at 32 Bunker Hill Avenue, Stratham, NH,
36 Tax Map 9, Lot 49.

37
38 Mr. Jeff Kevan from TFMoran described the lot line adjustment before moving on to how it
39 affected the cluster subdivision plan. He said the lot line adjustment reduces the
40 development of the subdivision by approximately 2 acres. Mr. Kevan showed what was
41 previously approved and referred to a triangular shaped piece of land that will now
42 effectively be removed. Mr. Kevan then referred to the percentage of open space. In the
43 previous plan, the development had 21.2 acres of open space which was part of the approved
44 subdivision which equated to 55.7%. The amended plan would reduce the open space to
45 19.32 acres or 53.3% which is still over the 50% required for a density bonus. The lot line
46 adjustment won't affect the practical use of the open space land. Another tenth of an acre will

1 be discussed later that the Fosses have requested be conveyed as part of the settlement
2 discussions. He said that there is also a gravel drive way which the Fosses would like to
3 have conveyed to them as an easement. Mr. Kevan said they were willing to do this as long
4 as it didn't have an adverse impact on the application.
5

6 Mr. Kevan continued by referring to the plan and explained the trail easements that crossed
7 the Foss driveway and property.
8

9 Mr. Baskerville identified an additional easement that goes from the road up to the property
10 to benefit the Town's lot. He asked if easement was new or existing. Mr. Kevan said that it
11 is existing. Mr. Baskerville asked about the intent of the easement. Mr. Kevan replied that
12 the Town has an access off of the Foss driveway to pass and repass onto Bunker Hill Avenue
13 (Mr. Kevan showed this on the plan).
14

15 Ms. Werner asked the Fosses if they were agreeable to the trail going across their driveway.
16 Mr. Foss said they were. Mr. Daley explained that the Fosses were part of the application.
17 Mr. McNeill, attorney for the Fosses said he would speak for them during the public session.
18

19 Mr. Baskerville asked for confirmation that the adjusted plan wouldn't impact the
20 engineering for the project. Mr. Kevan confirmed this.
21

22 Mr. Daley said that they were informed that there would be some blasting as part of the
23 construction process. Mr. Kevan said they have contacted the relevant State agency and 2 or
24 3 notes will be added to the plan, which talk about pre-blast surveys and precautions for
25 surrounding properties. Mr. Daley advised the applicant to provide more information and
26 assurances about the blasting when they submit the formal application. Mr. Kevan said that
27 they have filed all relevant permits with the State and addressed their questions.
28

29 Mr. Kevan continued by stating that the Department of Transportation (D.O.T) had requested
30 a 10 foot wide shoulder approaching the 2 drive ways. Mr. Baskerville asked if it would be
31 paved. Mr. Kevan said it would be and informed the Board that the D.O.T. had requested to
32 look at the drainage again. Mr. Kevan didn't anticipate any problems with that.
33

34 Mr. Merrick referred to the piece of land that is between the water tower and the Foss's
35 property commenting on the shape of the lot. Mr. Kevan said they would never be able to get
36 the internal lots to be square shaped. Mr. Donahue said it was a good buffer and explained
37 that at one point, they were hoping to have the trail go to where the water tower will be
38 situated, but after discussion with the Board and the Conservation Committee, it was
39 eliminated.
40

41 Mr. Baskerville asked Mr. Daley a procedural question; he said that the Board has
42 conditionally approved the subdivision and now the shape will change of the underlying lot.
43 He wanted to know if that means the applicant will just need to ask for an amendment to the
44 subdivision. Mr. Daley confirmed that it was correct.
45

1 Mr. Houghton asked Mr. Donahue if there were any additional anticipated waivers with this
2 application. Mr. Donahue said that there weren't.

3
4 Mr. Daley asked the Board if they supported the submittal of the formal application for the
5 amended subdivision plan. The Board said they saw no problems with the amended plan
6 and advised them to proceed with the formal application.
7

8 ***Public Hearing - Continued***
9

10 **Makris Real Estate Development, LLC., 11 Wentworth Terrace, Dover for the property**
11 **located at 32 Bunker Hill Avenue, Tax Map 9 Lot 49, Laurence and Debra Foss, 30**
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14 transfer .4346 acres to Tax Map 9 Lot 51 and 1.5381 acres to Tax Map 9 Lot 50 from Tax
15 Map 9 Lot 49.
16

17 Mr. Merrick made a motion to reopen the public hearing. Motion seconded by Mr.
18 Baskerville. Motion carried unanimously.
19

20 Mr. Houghton asked if the applicant had any additional comments. They did not.
21

22 Mr. McNeill explained that an appeal was filed with Superior Court appealing the July 18,
23 2012 conditionally approved subdivision. The language within stated in the appeal allows
24 the parties time to develop the terms for a settlement agreement. Since the filing of the
25 appeal, an agreement was found resulting in an amendment of the subdivision plan made up
26 of 3 components: (1) the memorandum of understanding which is a 3 party agreement
27 between the developer, the abutter, and the Town which relates to the items discussed this
28 evening, (2) the approval of the lot line adjustment plan, and (3) the ultimate approval of the
29 subdivision plan which also requires the approval by the State with regard to some of the
30 roadway conditions and any other remaining permits.
31

32 Mr. McNeil wanted to make it clear that there will be a conveyance of deeds to the Fosses
33 resulting in fee simple ownership of the driveway. The Town will be granted an easement to
34 use the driveway to access the water tower. He added that what is important to the Fosses is
35 the relinquished arguable claim by the Town that it may have had to use the remainder of the
36 property that is part of an easement. Mr. McNeill then referred to a gravel surface that
37 previously provided access to Mr. Foss's sister's property. When the agreement was
38 negotiated they wanted to have access over that to get to an area that is too steep to access in
39 another way. After the fact, it made sense for the tenth of acre referred to earlier by Mr.
40 Kevan to be conveyed to the Fosses as it would provide a good buffer that they could
41 maintain rather than a Homeowner's Association.
42

43 Mr. McNeill said he views this as a win-win situation for everybody, but asks that the Board
44 include the condition that the triangular piece of land which is a tenth of an acre be conveyed
45 to the Fosses provided all the other components of the plan are approved.
46

1 Mr. Baskerville made a motion to close the public hearing. Mr. Federico seconded. Motion
2 carried unanimously.
3

4 The Board agreed that the one tenth of an acre of land should be conveyed to the Fosses. Mr.
5 Daley said that the inclusion of the additional tenth of an acre would be included as condition
6 of approval along with other template conditions such as lot bounds would need to be set or
7 bonded and local permits would have to be received.
8

9 Mr. Baskerville asked Mr. Kevan if a state subdivision approval for the lot line adjustment or
10 if any state permits were required. Mr. Kevan said they weren't.
11

12 Mr. Baskerville said it might be a good idea to put a note on the plan saying that approval by
13 the Planning Board is not in itself an effectual detention of lot line location. Mr. Daley said
14 that they had used the same language for the Scamman lot line adjustment and that language
15 might be appropriate in this case. Mr. Daley said he was suggesting it might be advisable to
16 add the note to the plan. Mr. Donahue said it was acceptable to his client and made sense.
17

18 Mr. Baskerville asked also if this would be conditional on the approval of the amended
19 subdivision plan procedurally. Mr. Daley said it would be conditional on the approval of the
20 final amended subdivision plan.
21

22 Mr. Baskerville made a motion to approve the lot line adjustment as submitted with the
23 following conditions: (1) the triangle of land of approximately 4,320 square feet that
24 includes the gravel access way will be included and be transferred to Lot # 9-50 (parcel D),
25 (2) the approval is also conditional on the Makris subdivision Bunker Hill Common being
26 amended to reflect this lot line adjustment plan, (3) lot bounds will be set or bonded as shown
27 on the lot line adjustment plan, (4) Any State or local permits need to be received, (5) new
28 deeds will need to be prepared for the parcels for review and recording and approval of the
29 Planning department, (6) recording fees will be paid for recording and other comments as
30 addressed in Mr. Daley's memo regarding mylars etc.
31

32 Motion was seconded by Mr. Merrick. Motion carried unanimously.
33

34 **b. Zoning and Land Use Amendments – Workshop**

35 **i. Zoning Ordinance, Section VII. Signs.**

36 Mr. Daley explained that he had incorporated all the suggested changes for signage into a
37 draft document. He continued that there are 3 areas in particular for which he required
38 more guidance from the Planning Board.

39 Mr. Daley started the discussion by addressing electronic signs. The Board discussed this
40 in detail covering such topics as how to regulate the brightness of said signs and what
41 would qualify as an acceptable LED sign. Overall, the Board had mixed feelings. They
42 understood the need for businesses to promote themselves, but didn't want the character of
43 Stratham to be compromised. Mr. Houghton said that the term LED needed to be defined
44 and stated in the Ordinance also.

1 Mr. Federico said that there were 2 focus groups, one of which included presentations by
2 some sign companies. He said that LED signs were pretty typical these days and he
3 suggested they allow LED signs, but as reader boards only. He cited the Stratham Plaza
4 reader board as an example. Currently, the individual business owners are allowed to use
5 it for a month at a time, but if they had an electronic one, they could use it more
6 effectively.

7 Mr. Baskerville said he supported that idea, but wasn't sure how they could encapsulate it
8 in the Ordinance. Mr. Federico said just allow electronic reader boards that cannot change
9 for a specified period of time be it once a day or every 12 hours as that way they won't be
10 considered a distraction.

11 Mr. Daley brought the subject back to how the Board intends to regulate electronic reader
12 boards, asking if there would be a size limit. The Board suggested including language
13 detailing what would be permissible. The standards and or restrictions may include that
14 electronic reader boards could be contained within existing free standing signs as part of
15 the overall signage program, limiting the to total area to 20% of the square footage of the
16 free standing sign, and only allowing black and white lettering.

17 Ms. Werner then asked about gas stations commenting that if they are allowed to only use
18 20% of the freestanding sign, the prices wouldn't be easy to read. There followed a
19 discussion about whether or not gas stations should be allowed to use electronic reader
20 boards. Ms. Werner suggested the Board members go out between now and the next
21 meeting and look at signs and photograph anything they find acceptable or unacceptable
22 and come back with a better understanding. Mr. Daley supported this idea.

23 Mr. Daley moved to the next item brought forth by Mr. Deschaine with regards to code
24 enforcement. Under 7.8 General Standards and Criteria for Signs, Mr. Daley added the
25 language verbatim from the previous version that incorporates a percentage of the
26 extensions or legs as part of the overall sign calculation.

27 Mr. Daley reminded everybody that Mr. Deschaine had suggested sending the wording
28 about the removal of signs to Town Counsel to make sure the language is legal.

29 Mr. Daley then discussed freestanding signs and the suggestion about breaking up the
30 number of businesses within the Flexible Mixed Use District/Professional Residential
31 District and Town Center District to reflect the number of businesses. Mr. Daley said he
32 had done the same for the Gateway District, General Commercial District and the
33 Industrial District. He did increase the sign allowance for 5 or more distinct operations
34 from 120 square feet to 130 square feet. Mr. Daley shared that the EDC had met the
35 previous night to discuss the changes being made and asked how numbers were derived.
36 The numbers are based on the US counsel on signs and the square footage is based on the
37 miles per hour traveled for the Routes 33 and 108 and the numbers of businesses also.
38 Mr. Federico suggested a reference to the National Sign Association be included as part of
39 the Purpose of Intent.

40 Mr. Daley said he had made an amendment to the projecting signs section which is that
41 projecting signs will not project into any public or private street travel way.

1 At the previous meeting Mr. Baskerville suggested making the change that a building with
2 a maximum lot frontage of 50 square feet, is now allowed 50 square feet of permanent
3 sign so that too had now been added in.

4 Mr. Daley explained that currently there is no maximum aggregate area for signs on
5 buildings and sought the Board's guidance on this. He shared that Concord allows both
6 projecting and building signs. Mr. Federico said they should consider the uses of a
7 projecting sign which are generally for pedestrians whereas building signs are more for
8 vehicular traffic. Mr. Baskerville asked if businesses could put signs on the back roads
9 also. Mr. Daley said yes. Ms. Werner asked if a business had a small back parking lot
10 could they put another sign up there. Mr. Daley said they could. Mr. Merrick asked if it
11 would be possible to have something that allows the Board's discretion if a business wants
12 "x" number of signs. Mr. Houghton said the Board should consider a maximum aggregate
13 for LED signs too.

14 The last section added by Mr. Daley was the "Separability Clause" which basically says if
15 any portion is not in line with the Ordinance, it will be considered invalid or held
16 unconstitutional by a court of law, such holding shall not effect or impair or invalidate any
17 other sections, clause, portions, or phrases of this Ordinance.

18 Mr. Merrick referred to his comments from the previous meeting about whether or not a
19 structural engineering plan should be submitted to the Building Inspector for certain signs
20 and should it be included in the general permit application process. Mr. Daley said he had
21 included it in this latest draft. Mr. Baskerville asked if it was necessary for every single
22 sign. Mr. Daley said he could add "when required by the Code Enforcement Officer".
23

24 ii. Zoning Ordinance, Section VIII. Residential Open Space Cluster Subdivision &
25 Subdivision Regulations.

26 Mr. Daley said he had provided a copy of the various sections of the Ordinance and
27 Subdivision Regulations and needed some guidance from the Board about the
28 methodology for determining density bonuses and some direction as to how open space
29 should be defined in Stratham. Mr. Daley referred to the 32 Bunker Hill project and said
30 that the attorney Mr. McNeill had questioned Stratham's lenient methodology so Mr.
31 Daley had looked at other communities and found that Exeter had a maximum density
32 bonus of 10%. Dover has no density bonuses; other communities have 20% so Stratham
33 is on the higher level. Mr. Daley asked if the Board is comfortable with the current
34 regulations or would they prefer to have an allowable maximum percentage.

35 The Board agreed that certain qualifying factors such as the amount of bedrooms or the
36 use of innovative technology with septic systems should be removed entirely and the
37 process simplified. Mr. Houghton mentioned that the intent of the current density bonus
38 regulations is to preserve open space. Mr. Daley asked if the Board still saw this as the
39 intent. Mr. Houghton and Baskerville felt the current regulations weren't achieving the
40 preservation of open space in Stratham. The Board agreed with Mr. Daley's view that
41 they should be preserving quality and not quantity. Mr. Daley said that perhaps the
42 Conservation Commission should have a bigger role and be responsible for evaluating the
43 quality of the open space.

1 Mr. Houghton said that standards for trail systems should also be defined. Mr. Daley said
2 that for the Crockett Farm development, they used the guidance of the Appalachian
3 Mountain Club for the trail system there. He said the result was positive, but their design
4 standard wasn't that relevant for Stratham, however the Conservation Commission is
5 eager to develop a design standard for trails.

6 The conversation returned to open space. Mr. Daley suggested looking at each sub
7 paragraph. The Board felt the development yield bonus could be deleted. Ms. Werner
8 said she felt that a lot of the things the Board looks at when coming up with a number of
9 bonus points aren't equal; they don't benefit the Town of Stratham and the subdivision
10 equally. Mr. Daley asked if she would be more amenable if more points were awarded for
11 things such as contiguous common land. Ms. Werner agreed that she would for land that
12 either provides usable land or a view shed being preserved or even certain topographical
13 things being preserved as opposed to getting another point for another bedroom.

14 Mr. Daley asked if there should be a minimum lot size for an open space cluster division
15 lot. The Board responded no.

16
17 iii. Zoning Ordinance, Section III. Establishments of Districts and Uses:

- 18 1. Town Center District – Potential Rezoning Of Parcels and Expansion of District.
- 19 2. Professional / Residential District – Evaluation and Analysis of Uses within District.

20 Mr. Daley reminded the Board of their thoughts on rezoning the Town Center District
21 so far. One of the issues the Board had looked at how to limit the size limitations for
22 retail uses within the PRE District in new or existing buildings.

23 Mr. Daley said there were 2 big differences between the PRE and TC districts: retail
24 uses are not allowed in the PRE zone and neither are restaurants. He continued that
25 there has been a strong desire from property owners in the PRE district to have retail
26 opportunities. He asked the Board for their views as to whether more retail uses
27 should be allowed in the PRE district. Ms. Werner feels that they should allow some
28 kind of retail activity along the Route 108 in order to preserve it, so extending the
29 Town Center downwards. She continued that anything of historical value now will
30 disappear eventually because it's unusable and will be taken down. Mr. Daley said
31 that the Town Center needs to be more defined so why not include some of the
32 current PRE zone to add depth. Mr. Merrick said he never understood the Town
33 Center concept with the rotary and pond as it interrupts the whole thing. Mr. Daley
34 said that the D.O.T. in the past rerouted the Route 108. Mr. Houghton commented
35 that the flow of traffic will be impacted by the amount of attractions that you will find
36 along the road. Ms. Werner said there seem to be 2 issues; some property owners
37 have half their lot in one district and the other half in another district and the other
38 issue is getting this through a Town vote.

39 Mr. Baskerville suggested the Board take smaller steps towards getting the district
40 changed so it had a better chance of getting voted for at the Town Meeting. Mr.
41 Merrick asked why the Board didn't consider moving the zone northwards rather than
42 southwards. Ms. Werner said they had tried that in previous years but it wasn't
43 passed by town vote.

1 iv. Steep Slope Protection Overlay District.

2 Mr. Daley asked the Board to review his document and submit comments.

3

4 **5. Miscellaneous.**

5

6 There were no miscellaneous items to report

7

8 **6. Adjournment.**

9

10 Mr. House made a motion to adjourn at 9:30 PM. Mr. Federico seconded. Motion carried
11 unanimously.