

**JOINT MEETING OF THE ZONING BOARD OF ADJUSTMENT AND  
THE PLANNING BOARD  
TOWN OF PETERBOROUGH, New Hampshire**

**Minutes of November 26, 2012**

**Members Present:** Planning Board: Vice Chairman Joel Harrington, Alan Zeller, Alternate Audrey Cass, Tom Weeks, Ivy Vann and Barbara Miller, *ex officio*. ZBA: Chairman Jim Stewart, Sharon Monahan, Loretta Laurenitis, Peter Leishman and Alternate Robert Lambert.

**Staff Present:** Carol Ogilvie, Director Office of Community Development; Laura Norton, OCD Administrative Assistant, and Dario Carrara, Code Enforcement Officer.

Planning Board Vice Chairman Harrington called the meeting to order at 7:00 p.m. He welcomed the audience and introduced the Planning Board members and Staff adding “and at this time I would like to hand this meeting over to the ZBA Chairman Jim Stewart.”

Chair Stewart replied “thank you and good evening.” He introduced the members of the Board adding “this is a continuation and the third Public Hearing for Case No. 1186, the request of the Scott Farrar Home for a Special Exception and Variance from the ZBA.” Chair Stewart told the audience “we have had two public hearings and a site visit and the applicant has made a full presentation.” He noted “it is my hope that the applicant will make a final presentation to the Board, we open the hearing up to the public for *new* information and then we close the public hearing, deliberate and make a decision.” Chair Stewart then invited the applicant to speak.

Attorney Hanna took the floor and introduced himself as an attorney from Keene representing the Scott-Farrar Home. “Scott-Farrar is as eager as anyone to make a final decision tonight” he said adding “I will tell you that it is no surprise that our residents have been following this and have become agitated and also eager to resolve this.”

Attorney Hanna noted that he had been asked to address five or six issues that came out of the Site Visit on November 10<sup>th</sup>. “The first would be the issue of light illuminating from the inside out. I think we can do that quickly” he said. “We also have an updated landscape plan with new information which is important, information on the drop-off at the front entrance, and the need for and design of the Fire Lane.” He concluded with “and a list of dates for the use of the overflow parking by staff.”

Attorney Hanna noted Chief Lenox was present to give an update/explanation of the scope and the safety needs of the building. Attorney Hanna noted “but I would first like to submit our proposed conditions for Special Exception Approval.” Attorney Hanna read the self-imposed conditions offered for granting the Special Exception request. He stated “the Scott-Farrar Home agrees to abandon its legal non-conforming right to maintain overflow parking on the lower portion of the so-called “overflow parking area” at the east end of its site along the Nubanusit Brook. The Board understands that this condition is a compromise under which the Board expressly approves the Home’s right to have three (3) parking spaces in the area of the small clearing, immediately adjacent to the existing on-street parking, on the north side of Elm Street, and eight (8) spaces for

overflow parking on the inside of the service drive, as shown on the “General Grading Plan ZBA-1, Progress Print November 14, 2012.” The eight spaces shall not be paved, but may be either grass, gravel or gray stone. The right to use the above-referenced three (3) spaces shall be limited to the times set forth on the sheet attached entitled “Special Events.” An unspecified addition of five (5) times per year, plus occasional use by the neighbors upon request of the Scott-Farrar Home. The right to use the above-referenced eight (8) spaces shall be limited to the “Special Events” as set forth on the *Special Events List*.” Attorney Hanna noted “the list of Special Events is a representative list or events expected for the year and the title of events could change. The number of events listed will *not* change.”

Ms. Laurenitis asked that the three overflow spaces be pointed out again “I did not catch that” she said. Attorney Hanna pointed out the spaces with Ms. Laurenitis noting “so parking at the level of the Brook will be abandoned?” “Yes” replied Attorney Hanna “and it is configured so that people can back out?” asked Ms. Laurenitis with Attorney Hanna again responding “yes.”

Attorney Hanna went on to note “The Scott-Farrar Home shall install trees and other Landscaping as shown on the Landscape plans submitted (Preliminary Landscape Plan Scott-Farrar Home Sheets LS-1 and LS-2 dated 9-27-12 and revised 11-12-12.)”

Attorney Hanna thanked the members for their attention and introduced Chief Lenox. Chief Lenox reviewed the location of the Fire Lane beginning at the memory care area off Evans Road, extending around the back of building and ending at the main parking area. He reviewed the area of the front entrance noting “this is the main Ambulance entrance; you will notice it is full access so the apparatus will not have to make 2 or 3-point turns.” Chief Lenox asked “any questions?” Ms. Laurenitis asked how the Fire Lane was related to the building. “Does it have to be a certain distance away?” she asked. Chief Lenox noted the standard was 30 feet from the building adding “we will accept 25 feet in some instances but it cannot be right up against the building and not too far away for extending hand lines.” Mr. Harrington asked about fire hydrants with Chief Lenox replying “there will be two; they are just not on the plan yet.” Ms. Miller asked about the location of the hydrants with Chief Lenox replying “one in the front and one in the back.”

Jay Heavisides addressed the eight (8) spaces (denoted in green on the plan). Mr. Lambert asked if the three (3) spaces on the side of the road would be blocked off with Mr. Heavisides replying “they probably will be.” He went on to note the radius of the front entrance (the main ambulance entrance) “was configured such that we were able to establish additional parking. Four handicapped spaces and six regular spaces.” He also added “the entrance will be covered.” Mr. Heavisides moved on to the overflow parking area. He once again pointed out the three spaces along Elm Street as well as the spaces out toward the lower area. It was noted there was probably not enough room to pull straight in. He then pointed out the parking area by the Brook that had been abandoned.

Mr. Heavisides noted the project’s landscape Architect was on vacation “but I will do my best to answer any questions.” Mr. Heavisides reminded the members the plan exceeds the town standards as he reviewed the plan. He reiterated keeping the two large trees out front (one large Maple, one large Oak). He noted on November 11<sup>th</sup> the applicant and the agents had met with the abutters from Union Street to discuss landscaping “and based on that we moved the fill-in trees to

the top of the banking to give more screening. Getting the trees up higher improves the coverage” he said. He noted the planned evergreens were to be 6-7 feet tall “now they will be 10-12 feet tall and increased in density” he said. He added that the type of trees and species of bushes “were all based on the ecologist’s suggestions to enhance the wildlife corridor along the river, it is all native species.” He noted White Pines, White Fir and select Blue Spruce (all evergreen) with Sugar Maple, Red Oak and Blueberry/winterberry forsythia.

Ms. Laurenitis asked about a particular tree in the back of the building by the Fire lane. “What is that?” she said adding “it is a tree? A bush?” Mr. Heavisides replied it was a tree placed there in a landscaping effort to break up the vast open area in the back, “so it is not all lawn, to enhance the wildlife.” Mr. Heavisides then projected a graphic that portrayed how the trees were moved up noting “each block is the equivalent of about five feet.” A brief discussion about the modification made to the screening followed.

Mr. Harrington asked about the construction staging area with Mr. Humphreys replying “it will be in the field, we will use that as the staging area.”

At this time Attorney Hanna asked that a list of what had been distributed to the Board be listed for the record. He took a moment to review each document (first overview of the Site Plan, Front Entrance drop-off identified as Sheet SK-01, Cross- section through the parking lot identified as P-1, dated 11-14-12, Updated landscape and overview identified as LS-1 and LS-2).

Attorney Hanna also noted “I would like to clarify one thing.” He told the members there were 10 parking spaces in the entrance area with four of them being ADA compliant. “There is a big need for short term parking right at the entrance. This additional parking became available because of the loop area that was necessary for the turning radius of the ambulance.”

Attorney Hanna reviewed a letter addressed to the Chairmen of the Boards from Gerry Menke, Chief Executive Officer of EGA Architects. He noted “this is important as it relates to the size of the building and it is essential for your understanding.” Attorney Hanna touched on the high points of the letter by noting the complex consisted of 63 units with 18 apartments for Memory Care, 20 apartments for Assisted Living and 25 apartments for Independent Living. He noted Mr. Menke’s experience spanned over 46 years and 150 completed projects “and this project represents a very modest program for a viable multi-level residential care facility, the smallest in fact he has ever been associated with.”

Attorney Hanna reviewed the sizes of the units for Memory care (350 square feet), Assisted Living (700 square feet) and Independent Living (770 to 1460 square feet). Chair Stewart asked about the lighting. Attorney Hanna reviewed the light curbing initiatives planned for the units including shades, blinds, fixtures away from the windows, timers and motion sensors. “This is all in response to the concerns we heard through this process” he said. He also noted the outside light precautions to avoid light spillage.

Ms. Laurenitis asked about the Independent Living area “in relationship to the other areas of the facility.” At this point Attorney Hanna distributed a memorandum from the Scott-Farrar Home regarding the Independent Living Program. The Memorandum described the services that would be available (housekeeping, maintenance, fine dining, Concierge services and social, cultural and recreational activities). In a question/statement sort of way Ms. Laurenitis noted “the Independent Living units are not affordable housing?” Attorney Hanna replied “I don’t know. Is that a land use issue?” adding “it certainly does not affect the plan.”

Ms. Laurenitis noted an increase in staff to accommodate the increase in residents and asked “what does that mean for traffic?” Attorney Hanna reviewed the staffing for the new facility (55 positions over three shifts) and noted “I think the busiest shift has 25 employees.” Ms. Laurenitis asked if the independent living residents would have a separate dining area with Attorney Hanna replying “yes, they will be in the same building with a different dining area.”

Attorney Hanna asked if there were any other questions. There were none and he noted “alright, we are close to being finished here.” He took a moment to review the accommodations made throughout the review process, public hearings and neighborhood meetings. He noted the landscaping and substantial increases in the vegetative screening along Evans Road as well as the installation of a vegetative buffer or fence at 2 Evans Road. He noted the increase in height of the evergreens (6-7 feet to 10-12 feet) for the screening of Union Street and the added native species plantings on the suggestion of ecologist Jeffrey Littleton. Attorney Hanna told the Board the material costs for landscaping grew from \$100,000 to \$125,000+/- to \$190,000 to \$220,000 +/- with an increase of 75% of evergreen and deciduous trees and 30% in shrub counts since the preliminary presentation in September.

Attorney Hanna moved on to the Garages, noting multiple cupolas were added to break up the roof lines with added trellises to integrate them with the landscaping. He noted the carried roof forms to decrease massing and maintain the open views. Attorney Hanna reiterated the re-design of the lighting plan to include interior light fixtures (located away from the exterior windows) with optical shields to prevent light spillage, time clocks and controller that were added to switch the interior lighting as well as motion sensors to prevent unused or unattended rooms from being illuminated unnecessarily. In closing Attorney Hanna briefly reviewed the parking and the site/road changes that had been initiated. He acknowledged the hard work and dedication of the all-volunteer Board of Trustees of the Scott-Farrar Home should be duly noted and thanked the Board for their attention.

Chair Stewart opened the hearing to the public “for new information only please.” Ellie King introduced herself as an abutter. “I just have two things to say” she said as she pointed out the entrance to the building and the corner with the retaining wall and noted how a buildup of cars may cause a problem in that area. She also noted the ambulance entrance did not *have* to be front entrance. Ms. King also submitted an image of a 72,000 square foot eco mansion and noted “by looking at those renderings you cannot tell how big that building would be.”

Fran Chapman introduced himself and asked about the total parking spaces and the allowance for road parking. Teri Wenblad of 2 Evans Road approached the podium and read a prepared statement in favor of the project. She acknowledged “I did not start out a fan of this project”

explaining how the plan coincided with putting their family home on the market. She noted “since August, I have had plenty of time to ponder the ramifications” she said and urged the Board to approve the plan. “It is a worthwhile endeavor that has merit” she said adding “and the alternative is that the Scott-Farrar Home no longer exists.”

Jay Purcell introduced himself. He looked to the Board and said “this is a big project.” He noted the 63 units were on a 30,000 square foot footprint. “The Guernsey Building is on a 10,000 square foot footprint” he said adding “look at that versus the size of the houses across the river.” Mr. Purcell began to talk about the Special Exception when Chair Stewart interjected “the Special Exception is for the use.” Mr. Purcell replied “please let me make my point.” Attorney Hanna stood up and said “I object!” Chair Stewart stood up and replied “please sit down Mr. Hanna.” He repeated “the Special Exception is for the *use*” adding “the density issue is one of five criteria we have to consider.” He went on to tell Mr. Purcell “we have your letter; we have read it and talked to Town Counsel about it. With that said your concern has been duly noticed.”

Mr. Purcell replied “you may have my letter but the public does not. I have other things I would like to point out. This is the first time I have spoken.” Chair Stewart replied “no, please sit down Mr. Purcell.”

Lloyd “Butch” Walker introduced himself as a past member of the Board of Trustees of the Scott-Farrar Home. “I don’t have anything new” he said, “but I would like to say a few things about Scott-Farrar. “I was on the Board for six years, Chair for two before Ed (Despres) and after Ed (Hanault) and I just want to say a couple of things.” He went to note “Scott-Farrar has taken care of the elderly in this community for over 100 years. Their quality of care is unbelievable.” He explained a state inspection process the facility must complete on a yearly basis and reported the inspector noted “nothing to criticize the facility about” adding “I compliment you, this is where I would want my parent to be.”

He noted a meeting with Terry Knowles of the New Hampshire Attorney General’s Charitable Trust Unit in Concord, N.H. “Essentially congratulating us saying *you got here just in time.*” He added “so many other facilities your size have gone under.” Mr. Walker went on to note a business plan was developed and send to Ms. Knowles “and we are working together.” Mr. Walker concluded with “our biggest concern is the neighborhood and how we all get along.”

Laura Campbell introduced herself and noted the unusual circumstance of the joint meetings of the Boards. She asked “what happens now?” Chair Stewart replied “the point of the two Boards meeting with the applicant was to save time and money with the presentation portion of the process.” He also noted that “if the ZBA says no, that is it. If the ZBA approves the applicant’s request there will be multiple Planning Board meetings for Site Plan Review, without having to go through all this again.” Ms. Monahan added “both boards have received the same materials and heard the same testimony. Scott-Farrar Home has accommodated every concern so people do not have to go over all of it again.” Ms. Monahan went on to make a few distinctions between the ZBA and the Planning Board and the level of detail in their decisions.

Chair Stewart asked “how is the Board feeling?” It was noted that there was a hand up in the audience. Chair Stewart acknowledged Hope Driscoll of 10 Elm Street who read a statement in favor of the Scott-Farrar Home expansion. That statement is included in the record.

Matt Waitkins of 14 Union Street said “this has been a good process” adding “but for the record” again reiterated his concerns about the size and scale of the building. He also noted that “for something this size it is perfectly acceptable to be responsive to the abutters concerns. They should be more than happy to make some compromises.” Mr. Waitkins concluded with “I do think this is a very large project and anyway to scale it back would be better.” Mr. Waitkins noted that he would have liked to hear what Mr. Purcell had to say. “It would have been helpful to take his letter and his information into consideration” he said. At this point Mr. Purcell stood and stated he had comments not included in his letter but in the interest of the project that he would like to speak to. Chair Stewart replied “no sir.”

Ms. Laurenitis asked again about the 50-foot extension of the Family District. Ms. Ogilvie reviewed §245-19, *District Boundaries* where a district boundary line divides a lot of record, the regulations for either district of such lot may be extended up to 50-feet into the other district *provided* the lot has frontage on a street in the district being extended.

A motion was made/seconded (Monahan/Lambert) to close the public hearing and move to deliberations with all in favor. Chair Stewart called a brief recess at 8:40 p.m.

At 8:50 p.m. Chair Stewart read a brief statement about the deliberative process. He emphasized that no additional public input would be heard but that the Board did reserve the right to request additional information at their discretion.

Chair Stewart began with the request for a Variance. “In my opinion this is a very unique parcel of land with its slopes to the Nubanusit.” He added “and the amount of space being disturbed is pervious not impervious.” When asked to use the microphone Chair Stewart invited the public to move closer to the deliberative table. Receiving push back from that statement Chair Stewart agreed to use the microphones.

Chair Stewart noted the members could go down through the criteria of the Variance. He again noted the uniqueness of the parcel (situated in three zoning districts, its topography and its proximity to the Nubanusit). He added “and the area of infill is pervious not impervious.”

Ms. Monahan noted the request was for 2,300 feet of infill in the Shoreland Conservation Zone. She noted “if the criteria are met the Variance goes with the land.” Ms. Monahan went on to say “2300 is minimal; it is not much of anything for fill.” It was noted the Variance was necessary for public safety (the Fire Lane) and would accommodate the vegetative landscaping in the area.

Ms. Laurenitis noted “I cannot support the Variance at this point.” She cited the impact to the abutters adding “maybe if they did not remove the Pines.” She noted the replacement screening would not be mature so they would not be the same height. She also noted “I am not convinced there couldn’t be a change in the way the building is laid out to bring the Fire Lane in more and not intrude in the Shoreland Protection Zone.”

Mr. Leishman noted the Site Visit and spoke briefly about the height of the pine trees. He concluded by noting "I believe the applicant has made a huge attempt to minimize abutter impact by investing over \$200,000.00 in screening and landscaping. I support the variance." Mr. Lambert agreed noting "I also support the Variance." Ms. Monahan also mentioned the ecologist's report that "this is a minimal impact to the Shoreland Protection Zone."

A motion was made/seconded (Stewart/Leishman) to grant the Variance based on the criteria review "and what has been discussed." Chair Stewart, Mr. Leishman, Ms. Monahan and Mr. Lambert in favor. Ms. Laurenitis was opposed.

Chair Stewart noted "now the Special Exception." He went on to say "I think we should approve it. The applicant did a good job in their presentation." He noted specifically the visual consequences stating "I truly believe they have bent over backwards" noting the placement and amount of screening as well as the surrender of the majority of their overflow parking area. He quickly noted the architecture and how it sloped back into the topography. "I think it will actually be better than what is there now. I see no reason to deny this request" he said. Ms. Monahan agreed noting "it is an excellent location, Scott-Farrar belongs there." Ms. Laurenitis noted her approval to go along with the request. Ms. Monahan noted the Site Visit gave her a much better picture of how the applicant would accommodate mature vegetation and visual screening for Union Street. "That is no longer a concern for me" she said. She also briefly discussed the three types of housing and services the Home would offer, "I support it" she said.

Mr. Leishman noted his support for the project as well "but perhaps for different reasons." He noted the neighborhood meetings conducted by the applicant "and their proposals to please their abutters. The process has been pretty outstanding and the accommodations made have been significant" he said. He also noted his reluctance to have been so positive if the overflow parking concession had not been made. "I commend the applicant for removing them (parking spaces) and taking the concerns of the abutters and the Conservation Commission seriously." Mr. Lambert recapped many of the positive actions of the applicant and said he also supported the Special Exception request.

When a member asked about conditions of approval Chair Stewart replied "I don't think we need to go there" adding "the proposed condition submitted by the applicant is fine." Chair Stewart added "we'll just ask for substantial compliance with the plan proposed."

A brief discussion of how to hand the project off to the Planning Board followed. Ms. Ogilvie cautioned against locking in the motion when changes may come up in Site Plan. Chair Stewart replied "with all due respect I thought that was point of a joint meeting." Ms. Ogilvie relied "yes, but the Site Plan check list has things specific to the Planning Board." Mr. Leishman referenced each plan and date modified submitted by the applicant should be sufficient. Chair Stewart noted "so substantial compliance then." Mr. Leishman asked "determined by whom?" with Chair Stewart replying "Dario (Carrara, Code Enforcement Officer).

Chair Stewart then reiterated that the conditions submitted by the applicant were clear and complete. Mr. Leishman noted "I am sure Carol will incorporate what we want in the decision with or without the specific language."

A motion was made seconded (Leishman/Monahan) to grant the Special Exception with the two conditions submitted in writing by the applicant with all in favor.

Chair Stewart thanked the Board and noted “this concludes our portion of the public hearing, the focus now will be on the issues of site planning.”

With a smile Planning Board Vice Chairman Joel Harrington replied “we will take it from here, thank you for your willingness to meet jointly.” Vice Chair Harrington then announced the Planning Board would meet Monday December 10, 2012 at 6:30 p.m. He noted “we will go through the process” adding “I hope to deliberate that night as well.”

The hearing adjourned at 9:10 p.m.

Respectfully submitted,

Laura Norton  
Administrative Assistant

**Approved January 7, 2013**

**ZONING BOARD OF ADJUSTMENT**  
**NOTICE OF DECISION**

**Case Number 1186**

**November 26, 2012**

You are hereby notified that the request of the Scott-Farrar Home for a variance to Article III, Section 245-12 of the Zoning Ordinance and a special exception to Article II, Section §245-7 (B) (2) of the Zoning Ordinance to locate a Supported Residential Care Facility in the General Residence District, is hereby **GRANTED**.

The applicant requested the Board's approval to place fill within the Shoreland Conservation Zone and to construct a sixty-three (63) unit retirement community consisting of independent living apartments, assisted living apartments, memory care units, and associated common areas and services, on property located at 11, 13, and 15 Elm Street, parcel numbers U023-039-000, U023-040-000, U023-040-100, and U023-041-000, in the General Residence District.

In granting the variance the Board finds that all five of the variance criteria were met and satisfied, as presented by Attorney Hanna in the application dated October 12, 2012 and by subsequent materials provided to the Board during the Public Hearing process. Furthermore, the Board finds that:

- (1) The parcel is unique, with three zoning districts, its sloping topography and its proximity to the Nubanusit.
- (2) The proposed fill in the Zone is pervious, not impervious.
- (3) The impact to the Shoreland Conservation Zone is minimal and the proposed mitigation (based on a report by an ecologist) will actually enhance the natural area.

In granting the special exception, the Board finds that the applicant has met or exceeded all of the special exception criteria of the zoning ordinance, as presented by Attorney Hanna in the application dated October 4, 2012 and by subsequent materials provided to the Board during the Public Hearing process. The Board also accepts the Proposed Conditions for Special Exception Approval offered by the Applicant and applies these Conditions (attached to this Decision) to this approval. Furthermore, the Board finds that:

- (1) The applicant has made many alterations to the plans and many concessions in an effort to address neighborhood concerns.
- (2) The placement and amount of screening and the placement of the building improves the site and fits the neighborhood.
- (3) The Scott-Farrar Home has been a part of the neighborhood for more than 100 years, it is a necessary service, and the location is appropriate for that use.
- (4) The applicant has more than met the requirement to consult with neighbors and to provide compensation to lessen negative impacts.

Signed

James Stewart  
Chair