

**PLANNING BOARD
TOWN OF PETERBOROUGH, New Hampshire**

Minutes of January 9, 2012

Members Present: Chairman Leandra MacDonald, Rich Clark, Alan Zeller, Audrey Cass, Joel Harrington, Bill Groff, Ivy Vann, Tom Weeks, Barbara Miller and Rick Monahan.

Also Present: Carol Ogilvie, Director Office of Community Development, Laura Norton, OCD Administrative Assistant

The Peterborough Planning Board held its regularly scheduled meeting on Monday, January 9, 2012 in the Selectmen's Meeting Room in the Town House. The meeting was called to order at 7:00 p.m. Chair MacDonald welcomed the audience and introduced the members and staff. She noted the first item on the agenda was to receive information and comment on an application to the ZBA for a Special Exception to permit an elderly housing development at the end of Mercer Avenue, Parcel No. U022-002-000 in the Rural District. "We will take information on this request, deliberate and send a letter to the ZBA" she said.

Special Exception for Elderly Housing:

Craig Hicks introduced himself and began with a general overview/orientation of the property. He used a large graphic to point out the 7.85 acre parcel noting "it is pretty steep right now but some excavation has been done." He pointed out where the building would be situated noting "\$245:43 allows 10 units per acre." He went on to say the parcel would comply with all site plan regulations, would have 52 parking spaces, has three-phase power available, has a beautiful view of Pack Monadnock and would include a water main upgrade from the current two-inch system.

Mr. Weeks asked "is this just conceptual at this point?" adding "is the parking going to be in the front?" Mr. Hicks replied the graphic was indeed conceptual in nature adding "I am talking about the use so it is conceptual right now until I get the use approved." Chair MacDonald pointed out several concerns about the tree lines with Mr. Hicks replying "the engineers would figure it out" adding "the drainage, the slopes and ultimately the elevations." A brief discussion about the steep slope and topography of the parcel followed with Mr. Hicks concluding "I do not want to haul anything *in* or *out*. The engineers will figure it out." Chair MacDonald questioned a 2:1 slope noting "which is something you cannot do." A brief discussion followed with Mr. Hicks pointing out several examples of where the same type of slope had been successfully accommodated with retaining walls. He noted "the slope will accommodate the site plan regulations" adding "whatever needs to happen for a site plan is a conversation for down the road. Right now the question is *can the site accommodate the use* even if it is not currently meeting it." Chair MacDonald assured Mr. Hicks "we are not trying to determine their criteria. We have just been asked to review the application and give input to the ZBA."

Mr. Hicks continued on to note the building would be a three-story structure with single story units on each floor (no multi-story units). He reiterated that he would like to construct 78 units with 52 parking spaces (a Special Exception criteria of 1½ spaces per unit). Ms. Miller asked about the pricing with Mr. Hicks replying "they would be market rate units." Ms. Miller also

noted the proximity to town with sidewalks already established. Mr. Hick agreed noting “the location is one of the closest infill areas in town.” The members briefly discussed the (relatively new) changes from a passing lane to a protected turning lane on NH Route 101 near the intersection noting better sight lines and calmer traffic. Mr. Hicks referred to memos by both the Fire Department and the Department of Public Works generated from a site visit to the parcel in November. A brief discussion about the access to Mercer Avenue and the width of the street followed. Mr. Zeller asked “will it have a name?” Mr. Hicks replied “no, the development will have a name” adding “like the other condominium projects in town.” He noted Rivermead Road as an example. Mr. Zeller asked “who will own it?” Mr. Hicks replied “not me but someone will own it” adding “I own the property and I would like to do something with it.” When Mr. Zeller asked if Mr. Hicks could outline the parcel again so that the members may have a good visualization of the 7.8 acres Mr. Hicks did so. Finally Mr. Zeller asked if he may have permission to walk the property on his own with Mr. Hicks replying “sure.”

Mr. Monahan interjected “I am looking for precedence in my mind” with Chair MacDonald replying “I have one, Woodland Heights.” The members then had a brief discussion of what defines *elderly* that included both Federal and local guidelines. Mr. Hicks noted “ours (Peterborough) is one resident be the age of 55+” Chair MacDonald asked if the units would be one or two bedrooms with Mr. Hicks replying “probably some of both, an architect would figure it out, it is market driven.” He also noted “5% of the apartments will be ADA compliant, which is the regulation.” He pointed out all the units would be constructed as *adaptable units* and went on to explain how adaptable features are added only when and if needed. Examples of this included door widths already in compliance for wheelchairs and clearance offsets and grab bar anchors for bathroom facilities.

Mr. Weeks reminded the members that the group had been charged to discuss the number of units adding “we are not here to look at a site plan.” Mr. Weeks noted potential driving problems “on top of stacking the building into the hill.” He also noted an application in 1981 where the ZBA denied a similar request for 60 elderly housing units because they agreed it would generate adverse effects on the neighborhood. Chair MacDonald interjected “that is not a precedence.” Mr. Hicks added “with all due respect to Tom that (decision) involves a previous land owner and a previous time frame and is not germane to this conversation. Having a neighborhood not agree with development is nothing new to Peterborough. I am the owner now.” Nodding her head up and down Chair MacDonald replied “do not over defend it Craig, let’s just move on.”

Mr. Hicks reviewed changing demographics adding “it has been many years since this type of development has been discussed. There are lots of people living in town that would like to stay in town but there is not a heck of a lot of opportunity at market development.” He reiterated the parcel’s good location, accessibility and market rates. He noted it was zoned Rural “but it is in the middle of something a lot denser than that” adding “its highest and best use is **not** to have a single family house on it” he said. He also reiterated the concern over the steep slope and noted “it is not a concern. The engineers will do their job and will comply with all site plan regulations.” He concluded by noting “you have been working on infill associated with town water and sewer, good pedestrian traffic and close proximity to the downtown. There is not a site closer than this one that will accommodate that.” He noted Summerhill “40 years ago was an old farmhouse on a residential road and now it is a mini hospital” and Monadnock Community

Hospital “with its newest development is now huge and just had a connector road built to accommodate its traffic. Times change, there is a tremendous need for this type housing. There is a market for it and it starts with density.”

With no more questions from the members Chair MacDonald asked if anyone in the audience would like to speak. Steve Leone of 3 Mercer Avenue introduced himself and noted he also represented his wife and the residents of 4 and 5 Mercer Avenue. He began by noting “we do not object to this project but we have concerns over the use of Mercer Ave. as the only access point. He noted safety, character of his neighborhood and property values as concerns. He conceded they were close to the downtown and the plaza shopping centers but that pedestrian traffic would be virtually impossible many months of the year due to snow and ice. He also described the small lots on Mercer Avenue, noting the severity of parking opportunities and asked about another access to the development. He noted mention of another potential access form (US Route 202) if the parcel were to be used for another purpose and asked about the difference. “I would appreciate more on that – the difference between a residential and a commercial development” he said. Ms. Ogilvie briefly explained the standards between the two. She also noted the other access in this particular situation involved private property with Chair MacDonald interjecting “and we cannot make conditions on someone else’s property. We just do not do that.”

Walter Roman introduced himself and his wife Lynn of 35 Goyette Drive. He too noted concern in increased traffic turning left up Goyette Drive to avoid traffic and congestion at the intersection. He noted drivers could go up Goyette to come out at Route 101 and Elm Street or go further up and come out at Route 101 and Old Dublin Road by Summerhill Assisted Living. A map of the neighborhood was projected on the screen to show the detours. With respect to Goyette Drive Mr. Roman noted “it is a narrow street, we go for walks and walk our dogs.” Chair MacDonald replied “people come when their neighborhoods are effected” adding “but from a town point of view you must realize that while it may be a detriment to your lifestyle, the road is paid for by all the taxpayers and may be used by all the residents in town.” She acknowledged this might be a significant change to the neighborhood with Mr. Roman agreeing and adding “after I bought my house.”

Ms. Vann noted “if any one builds anything, anywhere it will effect someone” adding “it is not fair for the town to say you cannot do this or that because it will effect someone, somewhere.” Chair MacDonald added “right now Mr. Hicks is trying to get a number, a number that would make a carrying capacity for the land. That is what is happening right now, we are not at a site plan level.”

Mr. Weeks noted §245-43 and the parking requirements. He noted that while he would like guidelines on the width of the road, “it is 22 feet and that is an adequate width.”

Larry Jones of 20 Legacy Lane introduced himself. He began with “my understanding is that the ZBA and Planning Board are considering an application by an LLC (Robbe Farm Road, LLC) is that correct?” Mr. Jones went on to read a prepared statement. Essentially he questioned the legal status of the applicant in this case. He told the members that the LLC applicant was not in good standing according to the New Hampshire Department of State Corporate Division. “As of today’s date” he said “that LLC is in not in good standing and is in a state of administrative

dissolution.” Mr. Jones went on to note a disclaimer on the website that says the state does not guarantee that the information on the site is fully up to date. Mr. Jones also suggested the Board may be considering an application from an entity that does not actually exist and respectfully requested the Board defer any decision on the application until a status with the state could be confirmed or the application was resubmitted in Mr. Hick’s name and not the name of the LLC. *(A copy of this prepared statement is embedded at the end of these minutes).*

Went Mr. Jones was finished Ms. Ogilvie again explained to Mr. Jones that there was no application before the Board. “The Planning Board is just responding to a request from the ZBA” she said. Mr. Jones replied “the application is put forth by an LLC. You are responding to a request from another Board but that other Board is considering an application by that LLC.” He then asked if it would not be prudent to consult with the town attorney on the matter. Mr. Jones thanked the members and sat down.

Mr. Hick concluded by noting “the land is owned by the LLC regardless of what the state says” and “just because I have not paid my \$100.00 to the state does not make any difference.” Mr. Hicks noted he was in the process of putting his business affairs in order after his attorney’s death. “I am trying” he said.

The Public Hearing closed at 7:55 p.m.

Rezoning Request for Route 202 Parcels:

Chair MacDonald noted she would like to go right to a request for a rezone of two parcels from Rural to Commerce Park. Andy Peterson was present on behalf of the owners to request the rezone of two legal non-conforming parcels to more closely coincide with the abutting property which is Commerce Park.

Ms. Ogilvie put a graphic on the screen that showed an aerial view of the parcels and their proximity to the Commerce Park. Mr. Peterson began by thanking the Board for their time and attention. He noted the Board had re-zoned land across from the Recycling Center about a year ago. He went on to point out parcels owned by Tom Keenan and Don Burgess stating “it is Rural now but it is a bit of an island in relationship to the rest of the area. I would like to see it included in Commerce Park.”

Chair MacDonald questioned the setbacks and the single entrance adding “I question zoning them Commerce Park would give the owners any great flexibility.” Mr. Peterson replied “it is out of place the way it is now” adding “if you could help us with our setbacks we would accept a commercial designation.”

Chair MacDonald told Mr. Peterson the board would take his request under advisement, research it and let him know in plenty of time if this is something the Board would support (the alternative would be to make his request via petition). A brief discussion about the permitted uses in Commerce Park as well as the petition filing deadline followed. Lastly the members discussed whether or not letters of authorization (for this request) should be collected for the parcel owners with Chair MacDonald noting “we certainly have rezoned without letters in the past.” She

concluded by noting “we will look at it.” Mr. Peterson thanked the Board and noted his appreciation if the Board would come forth in support of the zoning change.

The discussion ended at 8:15 p.m.

Chair MacDonald noted a memorandum from the Heritage Commission that had been received the day of the meeting. Paper copies were distributed to each member. “I want to have a conversation about this memo” she said “but we need to talk about the ZBA issue.” Deb Kaiser, a Heritage Commission member, was in the audience and noted the memo could be polished up a bit “but we wanted you to get the information” she said. Essentially the memo addresses concerns the Heritage Commission has about the Traditional Neighborhood Development (infill) Overlay the Board has been working on. It was noted the Heritage Commission would present their concerns at the next meeting (time certain for 6:30 p.m.) on Monday, January 23rd at 5:15 p.m. Chair MacDonald noted the Board would get an early start on all the housekeeping items by starting early and then hear from the Heritage Commission.

Deliberation of ZBA Request

Chair MacDonald began with “the ZBA is looking for recommendations” adding “I think all they want us to do is weigh in on this with a number (density or units per acre). I think that is the issue.” She went on to note “but I have a hard time with that.” Mr. Weeks briefly reviewed the criteria the ZBA uses (including §245:41) noting “they are charged with a number of things.”

The members briefly discussed what they were in fact being asked to do with Ms. Ogilvie noting she thought, too, it was the number, but “it is not entirely clear.” The members briefly noted the walkability of the location, the road width and the number of day trips per resident. Mr. Weeks asked if the previous denial should be considered with Ms. Vann replying “no.” Ms. Vann went on to say “the ZBA should decide if the site is suitable or not suitable for elderly housing *then* they have to meet all the site plan requirements.” Mr. Groff interjected “forgive me but it looks like the ZBA would like us to make the decision for them, whether or not the parcel is suitable for elderly housing.” Mr. Weeks noted he thought the ZBA was looking for a recommendation on the 78 units being asked for and if that is not the right number, what would be the appropriate number.

One member noted the regulation under §245:43 states the number of units for elderly housing is *not more than* 10 units per acre. Ms. Vann noted “not more than is not the same as ten (units per acre)” adding “this will all be handled in site plan review.”

Mr. Mohahon stated he did not think the Board could make that judgment with little or no information “other than by gut feeling,” adding “site plan review will give us the information we need.”

Mr. Groff again expressed his displeasure with the request noting “they have pushed this off to us when we have a full plate of other things to do.” The members briefly discussed how the process used to work with the application going back and forth between the two Boards, sometimes on numerous occasions during the application process.

Ms. Miller suggested they go on the record and ask how the Planning Board was going to deliberate if they do not know what they are being asked to do.

Mr. Harrington suggested the ZBA may want the support of the Planning Board on the recognized desirability of the project, with the members agreeing that the Board was in favor of elderly housing.

A motion was made/seconded (Vann/Zeller) that the Planning Board finds the parcel in question to be desirable and should be considered for an elderly housing development.

Although currently zoned Rural a brief discussion about how an elderly housing development in that particular location fit well with the Master Plan with one member noting "but we have no specific recommendation on the number of units." Mr. Monahon agreed noting "we say that we approve the concept of the parcel being used for elderly housing." Mr. Harrington interjected "we *desire* the concept, we do not approve it" with Mr. Monahon replying "of course."

The first motion was amended to include Master Plan ideology and that the Planning Board supported the approval of a Special Exception for an elderly housing development, with all sitting members in favor.

Mr. Groff noted he did not understand why the ZBA just did not use their Special Exception criteria and make a decision "They have the information" he said adding "I do not understand why they would shoot this over to us, their criteria has been fulfilled." Ms. Ogilvie suggested the ZBA may have been looking for support in confirming the lot was appropriate for this use." Ms. Vann interjected "we have the Master Plan to back up our support (recommendation) and we are done."

Ms. Ogilvie requested the members review the draft Cultural Resources Chapter of the Master Plan for a public hearing in February.

Chair MacDonald noted she had a copy of the Innovative Use Planning Guide and would review it before the next discussion on infill. Ms. Vann announced she will recuse herself from any future discussion about the Traditional Neighborhood Development/Infill proposal. Chair MacDonald noted "that is your decision" with Ms. Vann replying "the thought that it could get caught up in court because of me is too much. That is my decision."

A motion was made/seconded (MacDonald/Monahon) to approve the Minutes of December 12, 2011 and December 27, 2011 as written with typos with all in favor.

The meeting adjourned at 8:45 p.m.

Respectfully submitted,

Laura Norton,
Administrative Assistant

Approved February 13, 2012