

**PLANNING BOARD**  
**Town of Peterborough, New Hampshire**

**Minutes of October 7, 2019**

**Members Present:** Dario Carrara, Ivy Vann, Rich Clark, Sarah Steinberg Heller, Judy Wilson Ferstenberg, Alan Zeller, Tyler Ward and Lindsay Dreyer

**Also Present:** Pete Throop, Laura Norton and Kristin Bixby, Office of Community Development

Mr. Carrara called the meeting to order at 5:15 p.m. He welcomed the audience and introduced the Members and Staff. He told the Members and audience they had a limited time as there was a ZBA Meeting scheduled for 7:00 p.m. “We’ll get through as much as possible” he said.

**Minutes:**

A motion was made/seconded (Zeller/Ward) to approve the minutes of September 16, 2019 as written with all in favor.

**Public Hearing:** EAM Peterborough Holdings, LLC is seeking Subdivision and Site Plan approval and a Conditional Use Permit for a 20-unit residential condominium project served by a private road, utilizing the Traditional Neighborhood Overlay Zone 1 (TNOZ1) Section of the Zoning Ordinance (Section 245-15.3). The two abutting properties on which the project will be sited are located at 69 & 75 Concord Street, Parcel Numbers U016-041-000 (located in the General Residence zoning district) and U016-042-000 (located partially within the General Residence zoning district and partially in the Family zoning district.) The project proposes to demolish all existing buildings on the two parcels and to construct 14 single-family homes and 6 multifamily units in two, three-unit buildings (referred to as triplexes). Access to all dwellings will be from a private 500-foot long loop access road (Woodman’s Lane) serving the single-

family dwellings and a 180-foot long dead-end access road (Floral Lane) serving the two multifamily buildings.

The applicant is requesting a waiver of TNOZ1 minimum requirements as follows: Section 15.3.E.3.b.i to permit a lot size of less than 5000 square feet for a Single-Family dwelling; Section 15.3.E.3.b.ii to permit a portion of the end unit in each multi-family building to be located in the Family District; and Section 15.3.E.4 to permit front setbacks less than the minimum of 15 feet. The applicant is also requesting waivers of standards set forth in Chapter 237 as follows: Appendix A “Street Standards” Paragraph D “Private Roads” and several Roadway Geometric Design Standards set forth in Table #1.

Chad Branon stood and introduced himself as a Civil Engineer with Fieldstone Land Consultants, PLLC located in Milford, New Hampshire and representative for EAM Peterborough Holdings, LLC. He also introduced Architect Michael Petrovick of Catlin & Petrovick Architects PC. As in the past Chair Carrara noted he lived at 75A Concord Street and asked if the applicant had any issue with him sitting on the Board. As in the past Mr. Branon replied “no.”

Mr. Branon then gave a brief background of the project which began with a Preliminary Design review in October of 2018. He cited the significant time and effort spent in addressing concerns raised by both the Board and the abutters throughout the numerous preliminary hearings since then. Mr. Branon made it clear that tonight he was representing the applicant with an actual application for Site Plan Review, Subdivision and a Conditional Use Permit as cited in the public notice.

Ms. Vann reminded both the Board and the audience of the time constraint. She noted that the project was still incomplete “and there is no chance there will be a decision tonight.” Chair Carrara agreed adding “the scope for tonight is to have the applicant present his application and hear the Board’s concerns and questions. I’d also like to review the

dimensional and use standards and the other relevant provisions of the TNOZ 1 ordinance and the requested waivers.”

Mr. Branon formally acknowledged his client (EAM Peterborough Holdings, LLC) and reiterated their request for approval of the three requests he'd identified. “This is a 20-unit development on the east side of Concord Street” he said pointing out the Parcel Numbers of the two lots as 69 Concord Street, U016-041-000, *General Residence District* and 75 Concord Street, U016-042-000, partially in the *General Residence* and *Family Districts*. He noted the total acreage of the lots was 6.273 acres of land with 511 linear feet of frontage that currently consisted of a 2-unit residential apartment building and the former Woodman's Florist building. “The lots are bordered mostly by residential properties” he said.

Mr. Branon pointed out the four curb cuts that currently serve the combined parcels noting the State will be reducing that number to two. Mr. Branon also noted the lots were located within the Groundwater Protection Overlay District (GPOD) and the Traditional Neighborhood Design Zone 1 (TNOZ 1). Mr. Branon took a moment to review the *purpose and intent* (the allowance of infilling of lots and additional residential housing in close proximity to the Downtown); *minimum requirements* (existing water and sewer (or) the ability to connect and the reuse of existing habitable buildings); *lot and yard standards* (minimum standards for subdivision or the addition of additional residential units that don't involve subdivision); *setback requirements* (determined by using the average of existing developed lots located on either side of the project parcel and on the same side of the street, based on most recent town mapping as measured along the adjacent street frontage); *building design* (the height, scale and massing of the building as well as the sizing and shape and orientation of the rooflines as reflected by existing residences within 300 feet in every direction of the property) and *lot coverage* (specifically no more than 25% impervious coverage in the Family District and no more than 35% in the General Residence District (driveways, excluded). “We have been working on this for quite some time now” he said adding “and we have prepared a plan to develop a 20-unit development under TNOZ 1.”

Mr. Branon then reviewed the prepared site plan consisting of 14 single units and 6 multi-family units (2 triplexes). “The single units will have a cottage style layout and be located off the front 500-foot long loop road (Woodman’s Lane). The road will be 14 feet wide with engineered 2-foot gravel shoulders.” He told the Members an change for the Preliminary plan and the subsequent road revision was in response to the feedback and request of the Department of Public Works.

Mr. Branon pointed out the 190-foot long (dead-end) road to the east (Floral Lane) that led to the multi-family units. He noted a turn-around as well as visitor parking at the end (top) of road. “Those spots are 9-feet wide and 18-feet in length, meeting the parking space criteria” he said.

Mr. Branon then briefly reviewed a retaining wall that was to be up to 110 feet in length and 3.5 to 10 feet in height that would help to stabilize the slope (especially) in the area of Unit #10. He told the Members the retaining wall would balance the goals and objectives of TNOZ 1 with slope stabilization and responsible development and noted “despite those slopes and the existing conditions we can maintain a long-term design for the project.” He reiterated the work invested over the past year and the number of designs that had been evaluated. “A lot of thought has gone into the development of this location to create the best unit layout” he said adding “that explains the change to the triplexes off Floral Lane to accommodate the topography.”

Having mentioned the triplex buildings Mr. Branon referred to 245-19.B.3. which states “where a district boundary line divides a lot of record, the regulations for either district of such may extend up to fifty (50) feet into the other district provided the lot has frontage on a street in the district that is being extended.” He went on to note their waiver request of 245-15.3.E.3.b.iii would permit a portion of the end unit of each multi-family building to be located in the Family District. He went on to say, “it only extends a bit into the district, but we still need a waiver.” he said.

Moving on the Plan Set Mr. Branon briefly reviewed specific sheets of the Plan including *existing conditions* and the *condominium subdivision*

*plan*. He pointed the limited common areas for each unit noting “some are slightly below the 5000 square-foot requirement of the ordinance, and we will be seeking some relief for these units.” He went to tell the Members the greenspace and lot coverage is consistent with the past plans “and the impervious increased slightly because of that specific request from the Department of Public Works to increase the width of the road to 20 feet.” Mr. Branon then told the Members “it is really important to realize the individual common areas are *all* below the 35% impervious lot coverage requirement.”

As Mr. Branon moved on to sewer and water, erosion control and stormwater recharge system details he noted some of the technical details of the stormwater infiltration systems (storm drains, catch basins and trenching). He noted low impact bioretention areas, interconnects and storm chamber systems, grading, micro grading and erosion control measures. “We meet and exceed local requirements and the DES Alteration of Terrain, Sewer Discharge and Shoreland permit requirements as well” he said. He also noted the Plan Set also included plans for utilities, lighting, landscaping, roadways and construction related details.

Mr. Branon reviewed the sidewalk plan and a brief discussion about connectivity and crosswalks followed. He briefly reviewed the architecture relative to the building design and how it meets the criteria outlined in the TNOZ 1 Ordinance. As a result the Members had several questions about the steep slopes and the material that was to be excavated. Mr. Branon told the Members the material excavated will be used to fill to raise the grade along the front of the property making it consistent with the other homes on Concord Street. He also noted the residual export of material was estimated to be in the vicinity of 8000 - 10000 cubic yards “which is not a ton of material, it falls within the limits of this type of construction project” he said. When Mr. Throop noted the estimate may be up to 4 or 5 times over the limit that would trigger an excavation permit Mr. Branon explained no permit was

required as the removal was exclusively incidental to the construction of building on the lot the removal occurs.

Ms. Vann asked additional questions about the grade of the lot and what the standards require. Mr. Branon noted percentage grades (5%) that were considered flat panel (adding intersections and highways were 2-4% for perspective). Ms. Vann noted an 8% slope on Floral Lane with Mr. Branon replying “8% is common with driveways, especially in New Hampshire. It meets the town design standard as well; it is not an issue.”

Mr. Ward pointed out the lot and yard standard of TNOZ 1, specifically the minimum lot size for a single-family residence being 5,000 square feet. He pointed out in a prior meeting Lots 2, 3 13 and 14 did not meet that standard adding “but *now* I see there are 11 lots that are under 5,000 square feet which is not entirely true to the design.”

Citing lot sizes of 4945 to 4990 square feet (with Lot 4 being the smallest at 4050 square feet in size) Mr. Branon argued all the lots were close to 5,000 square feet and noted “we meet the intent and goals of the ordinance.”

Ms. Ferstenberg asked if the applicant had considered *removing* a lot so that the other units would meet the size standards. She pointed out “then you wouldn’t need a waiver.” Mr. Branon took a moment to remind the Members that “all along we have recognized the infrastructure required for such a project would require 20 units. 20 units is important to make the project work.” Ms. Ferstenberg also noted the high traffic volumes on Concord Street and noted her concern about additional traffic congestion. Mr. Carrara interjected “well I live on Concord Street and I can tell you adding 20 units to the traffic formula is like adding a teaspoon of liquid to a gallon of water.” Nevertheless Ms. Ferstenberg suggested a traffic study may be in order.

With no additional questions from the Board Mr. Branon turned the presentation over to Architect Michael Petrovick. As he distributed elevations of the proposed dwellings (14 single-family units and two triplex (multi-family) buildings with three units each) he told the

Members the units were 1200 square feet, 3-bed. 2-bath units with a height and massing consistent with the surrounding neighborhood. “The structures will have architectural elements that will enhance the neighborhood and the units are oriented to face the street with the primary entrance facing the inside streets.” He noted the porches on Woodman’s Place were hopefully pleasing to Ms. Vann (facing Concord Street with a depth of 8 feet). “And, again, they will resemble the vernacular architecture of the neighborhood” he said. Mr. Branon interjected “and I think it is important to mention the amount of time that was spent on the architectural design of the triplexes at the top of the site.” He noted the challenge of the slopes (especially to the upper east side of Floral Lane) and told the Members “design is an integral part of how they fit in and enhance the site.” Once again he reviewed the purpose and intent of the ordinance and mentioned the elements of creating housing opportunities that reflect today’s changing demographics. He went on to point out the project helped to discourage extensive development in the rural areas of town while locating density within close proximity to police, fire and emergency services. “It encourages pedestrian and non-motorized traffic which allows for less dependence on automobiles” he said adding “and makes more efficient use of the town’s existing infrastructure while creating opportunities for smaller, more efficient and affordable housing. This project meets the intent of the ordinance as it touches each of those elements” he said.

As concerns of terrain, elevation, erosion and impacts on the neighboring properties were again raised Mr. Branon reiterated the existing forest and vegetation solutions that may be enacted. He also reiterated the 19-sheet Plan Set with all the design components and said, “I hope you accept this plan this evening. And that we may get a sense of the Board on the waivers requests to the minimum requirements.”

A motion was made/seconded (Vann/Zeller) to accept the application by EAM Peterborough Holdings, LLC as substantially complete with all in favor.

Chair Carrara then suggested the Board spend a few minutes reviewing the minimum requirements of the ordinance and a review of (“*not a debate of*”) the waivers requested by the applicant. “I just want to go over these things” he said.

Before getting started another brief discussion about the *retaining wall* (the plan to keep everything from sliding downhill (angle of repose) and *CEI’s report*, the town’s independent third-party drainage and erosion control consultants (stormwater, erosion control, soil stabilization and excavation review) and steep slopes followed.

Mr. Branon briefly reviewed the structural design plan, detail and specification of the retaining walls. He included aspects of elevation, grading, erosion and micro-grading as well as a number of protective stabilization methods and barriers that may be introduced, sheet piling being one of them.

Ms. Vann interjected “no big dumb rock piles” with Mr. Branon replying, “no, this is series of steel put into the ground” (and) “a great stabilization is vegetation, it is done in designs lie this all-over New England.” He went on to add the facts about surface runoff (*little* surface runoff) to groundwater (*very little* groundwater in the area) which allows for the creation of a vegetative treatment to take place that is able to secure the slope. “We are confident with the slope stabilization and design the that area” he said. He also briefly explained the potential use of a modular block wall for a retaining wall. Ms. Vann cautiously interjected “if you are a railroad person you will understand when I say we don’t want a lot of riff-raff up there. The last thing we want to see is a bunch of good-sized rocks.”

Chair Carrara redirected the Members to a brief review of the minimum requirements and the requested waives. From the audience John Kaufhold stood and asked about a point of order. “I have a letter in my hand that says this meeting was happening tonight and that as an abutter I have the right to be heard” he said. As Chair Carrara began to explain that no vote would be taken at the conclusion of the public hearing, and

that abutter testimony would in fact be heard in full. Mr. Throop announced the hearing would be continued to a date and time certain of Monday, October 14, 2019 at 6:30 p.m. in the Board of Selectmen's Meeting Room. Chair Carrara concluded "we need to review the minimum requirements of the regulation and the waivers. It is *not* a discussion it is just a reenumeration of what we are chewing on."

*Minimum Requirements:*

Chair Carrara noted the first requirement of eligibility was that the lot must be either already served by *town water and sewer* or is able to connect to existing service. "And any proposed new dwelling must be approved for utility connection by the DPW" he said.

Chair Carrara went on to note the second requirement was to *reuse existing buildings* on the lot. "Demolition of habitable buildings in order to subdivide a lot and create additional dwelling units is strongly discouraged" he said.

The third requirement is *lot and yard standards* including frontage and lot sizes in both the General Residence and Family Districts.

The fourth requirement is *setback requirements* where in no instance shall the front setback be less than 15 feet nor greater than 50 feet and the minimum side and rear setbacks shall not be less than 10 feet as to keep with the character and streetscape of the neighborhood.

The fifth requirement is *building design* which evaluates the height, scale, massing, size, orientation and spacing of windows and doors, the shape and orientation of the rooflines and the primary entrance to new buildings oriented to the street.

The sixth requirement is *lot coverage* with Chair Carrara noting the previous testimony by the applicant regarding the specification of no more than 25% impervious coverage in the Family District and no more than 35% in the General Residence District. Mr. Throop noted that while the has demonstrated the limited common areas of the project are in compliance with the ordinance's lot coverage standard "the Board's

stormwater consultant has provided calculations of the overall impervious surfaces to be 22% “which is above the 20% maximum standard for development in the Groundwater Protection Overlay Zone.” (The Groundwater Protection Overlay Zone is superimposed over existing underlying zoning districts and is comprised of Westland Protection Areas and Stratified Drift Aquifer Areas. ***For all new development*** impervious surfaces may not be greater the 20% of the land area as stated in 245-14.E.2.

Mr. Branon took a moment to review the applicant’s stormwater and infiltration systems concluding “meet all the Groundwater Protection Overlay Zone standards.”

The seventh and last requirement is *parking and driveways* where drives and parking areas shall not be less than 5 feet from the side or rear of the property lines. It was noted the Planning Board *does* have the authority to increase that setback if and when necessary to avoid negative impacts to neighbors.

*Waivers:*

Chair Carrara noted the applicant was requesting waivers of TNOZ 1 minimum requirements as follows:

- Section 15.3.E.3.b.i minimum lot size in the General Resident district to permit lot areas that will be less than 5000 square feet minimum for 11 of the 14 single-family units.
- Section 15.3.E.3.b.ii to permit a portion of the end units in each multifamily building to be located in the Family District.
- Section 15.3.E.4 to permit front setbacks less than the minimum of 15 feet to accommodate porches within the setback for 13 of the 14 single-family units, and to permit side setbacks to be less than the minimum of 10 feet to accommodate porches within the setback for 4 of the 14 single family units.

Given the complexity of the requests Ms. Vann requested the applicant prepare a chart that summarizes the dimensional standards for how the limited common areas associated with each unit meet the lot size and lot coverage requirements of the TNOZ 1 ordinance.

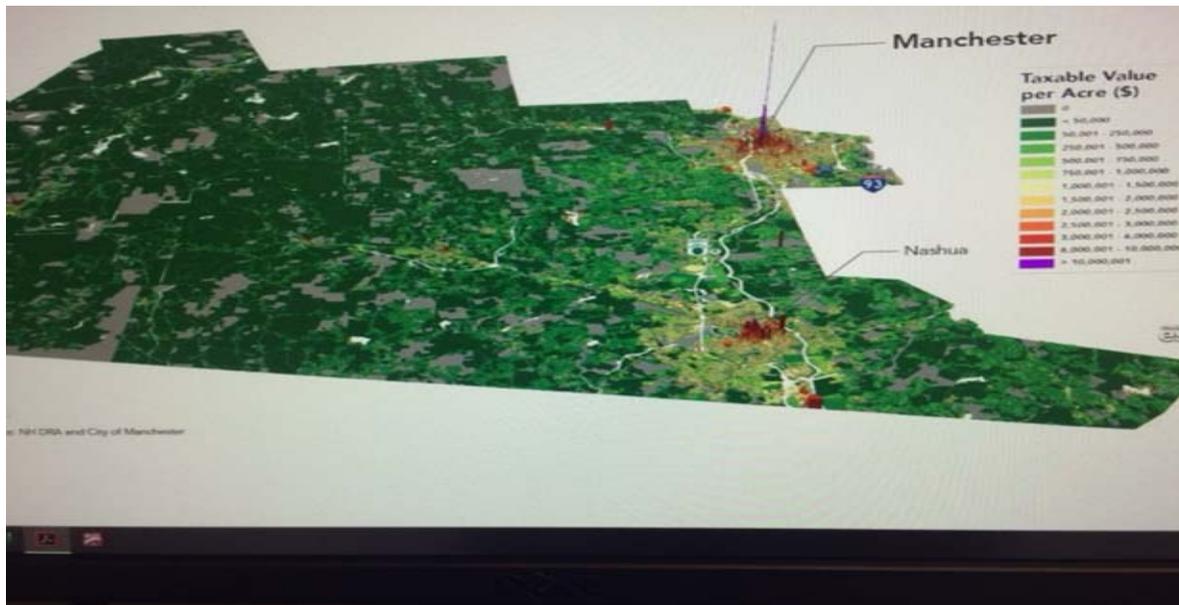
It was noted that in accordance with Section 245-15.3.B. “Authority and Administration, “the Board is authorized to “attached reasonable conditions, or waive or modify any requirements of this section if specific circumstances relative to the proposal indicate that the waiver will properly carry out the spirit and intent of this ordinance.”

In reference to Section 15.3.E.3.b.i. Mr. Ward reminded audience and other Members that “the town was very generous with the lot size at Town Meeting and now they have pushed it even further out of place.” Another Member noted the waiver for multi-family units in the Family District is where usually only single family and duplex units are allowed. Chair Carrara concluded “as an overview your points are well taken.”

Mr. Branon respectfully requested a sense of the Board regarding a traffic opinion letter. When the Board was queried only Ms. Ferstenberg raised her hand in a “yes” response. Ms. Ferstenberg also took the opportunity to suggest the existing apartment building on site, while not able to be rehabilitated may be raised and rebuilt on its current footprint (resembling it architecturally) and used as affordable housing.

In conclusion Mr. Throop mentioned the Town’s independent third-party consultant’s report that had been received Thursday afternoon and that the applicant and Staff would be afforded enough time to review it. He asked, “do you think you’ll be ready to address this next week?” Mr. Branon replied, “we’ll work through the CEI review, but we don’t have a lot of concern with it.”

### **Other Business:**



As the above graphic was projected Ms. Vann explained the (draft) value per acre map (tax revenue per acre versus cost of XX for that area) noting a denser development uses infrastructure for a better tax flow situation (showing compressed areas create better tax revenue).

Ms. Vann told the Members the graphic was developed by Urban 3 (an Asheville North Carolina based urban planning firm). She noted their lead analyst, Joe Minicozzi would be presenting in Manchester next week, and noted his presentation reveals to audiences the similarity of development across the country despite varying tax systems and works with cities and towns to help them reach their full economic potential. “I urge you to consider attending the presentation” she concluded adding “he’ll talk about this map and explain what the implications are without telling you what to do.”

The meeting adjourned at 6:35 PM.

Respectfully submitted:

Laura Norton

Administrative Assistant