

PLANNING BOARD
Town of Peterborough, New Hampshire

Minutes of November 25, 2019

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

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

Mr. Carrara called the meeting to order at 6:30 p.m. He welcomed the audience and introduced the Members and Staff.

Minutes: A motion was made/seconded (Vann/Zeller) to approve the Minutes of October 21, 2019 with all in favor.

Continued Public Hearing:

Request for a Conditional Use Permit, Subdivision, and Site Plan approval with requested waivers (waivers approved 10-21-2019), for EAM Peterborough Holdings, LLC. This proposal is for a 16-unit residential condominium subdivision served by a private road, utilizing Traditional Neighborhood Overlay Zone 1, located on two abutting properties at 75 Concord Street (Parcel No. U016-041-000) and 69 Concord Street (Parcel No. U016-042-000).

Having read the case Chair Carrara reminded the Members and the public that there would be no additional testimony from the public or the applicant. Mr. Throop noted a revised plan had been received November 19th. He noted that new Plan Set had been included the Member's packets and a hard copy had been distributed for review at the beginning of the meeting. Mr. Throop went on to note the revised plan confirms a total impervious lot coverage in the Family District was 0.09% and the General Residence District was 26% "with an overall total impervious cover for the project to be 14.5%" Mr. Throop suggested the applicant's representative give a very brief update of the revised plan.

Chad Branon stood and introduced himself (for the record) as a Civil Engineer with Fieldstone Land Consultants, PLLC located in Milford, New Hampshire and representative for EAM Peterborough Holdings, LLC.

Mr. Branon briefly recalled the meeting on October 14th where the applicant had presented a new plan proposing elimination of the triplex units which reduced the total number of units to 16 for the development. He reviewed a number of the

outstanding items at that time including concerns from the Town's independent consultant (CEI); waiver approvals (which were vital to the finalization of the plans); design elements; modifications to grading, erosion and sedimentation control and construction details and lot layout.

Mr. Branon took a few moments to clarify the waivers noting he had put together a table (located on page 6 of the Plan Set) that summarized minor changes to the dimensions to the unit layouts. "This will be on the final plan to reflect what is needed for the particular waivers" he said.

Mr. Branon re-reviewed the LCA (Limited Common Area) Lot Size Chart, Lot Coverage by LCA and Overall Lot Coverage Calculations for the Members. He noted the correspondence by the independent Stormwater Consultant (CEI) indicating that *all* concerns have been addressed, including a schedule of construction activities for site work, demolition, and all erosion controls throughout the project. "We have made great progress since October" he said before handing the meeting back to the Chairman.

Chair Carrara thanked Mr. Branon and told the Members "the first thing we need to do is review the waiver criteria."

Ms. Vann noted that in accordance with the Authority and Administration section of 245-15.3.b "the Board is authorized to attach reasonable conditions, or waiver or modify any requirements of the section if specific circumstances relative to the proposal indicate that the waiver will properly carry out the spirit and intent of the ordinance. She noted the **Purpose and Intent** of the TNOZ1 as follows:

The Purpose of this section is to allow for the infilling of lots and additional residential housing in close proximity to the Downtown Area in sections of town where there are established subdivided neighborhoods. This approach to development is in furtherance of Vision Statements and Goals & Objectives of the Peterborough Master Plan. Advantages of infill development as described in the Master Plan include:

1. creating housing opportunities that reflect changing household demographics (such as retirees, single person households);
2. discouraging extensive development in rural parts of town;
3. locating density within close proximity to police, fire, and emergency services;
4. allowing residents to become less auto dependent;
5. making more efficient use of the Town's infrastructure including water & sewer services; and

6. creating opportunity for smaller, more energy efficient, and thus more affordable, housing.

Ratification of Waiver for 245-15.3E.4. *Setbacks*:

Ms. Vann cited and briefly reviewed the updated Porch Setback Encroachments table (Page 6 of the revised Plan Set) and told the Members “we also have minor encroachment for the newly configured LCAs of Unit 7 and Unit 8. She reminded the Members they had asked for the porches to be larger at the October 22nd meeting and asked them to acknowledge that request, their agreement with the circumstances, and if the proposed condition would still carry out the spirit and intent of the ordinance. “We just have to ratify the waiver” she said.

A motion was made/seconded (Vann/Zeller) to ratify the vote on October 21, 2019 to grant a waiver of *245-15.3.E.4 Setbacks* as show on the table provided.

Chair Carrara noted “we have a motion and a second, is there any other discussion?”

Mr. Ward asked for clarification that the two porches were for the two new units at the top of the development. Mr. Carrara replied “yes” with Mr. Ward asking, “why not just go back two feet?” Mr. Branon noted their attempt to pull the development as far forward as possible to minimize the slopes in the back. He told the Members “a couple of feet can easily convert to 10 to 12 feet of additional impact up there when you look at the grades. This is a reasonable request.”

Vote: all in favor.

New Waiver: 245-15.3.E.7 *Parking and Driveways*:

It was noted a review of the Parking and Dirveway Standard and driveway setback encroachments were listed on Page 5 of the Staff Report. Ms. Vann noted that the driveways and parking area shall not be less than 5 feet from the side and rear property lines (with the caveat that if a driveway is shared, the setback does not apply). She went on to say that due to the geometry of the access road layout and the radii requirements for each driveway, four of the driveways on the corners of the loop road have minor encroachments into the side setback. She told the Members the new proposal design included a shared driveway for two of the new units and a turnaround in the side setback for one of unit’s LCA. “The Board will need to consider granting a waiver of the driveway setback to permit these encroachments before making a finding on this requirement” she said .

A motion was made/seconded (Vann/Zeller) to grant a waiver 245-15.3.E.7
Parking and Driveways

Chair Carrara noted “we have a motion and a second, is there any other discussion?” No further discussion.

Vote: All in favor but Mr. Ward who was opposed.

245-15.3.E TNOZ1 Minimum Requirements:

After a review of the findings for the Minimum Requirements Ms. Vann noted “we need to go over these findings for the Conditional Use Permit” said Ms. Vann adding “and we need to vote on each requirement individually.”

Water and Sewer: A motion was made/seconded (Vann/Zeller) that the water and sewer minimum requirements comply with Traditional Neighborhood Overlay Zone 1 (TNOZ1).

Chair Carrara noted “we have a motion and a second, is there any other discussion?” There was no further discussion.

Vote: All in favor

Reuse of Existing Buildings: A motion was made/seconded (Vann/Zeller) that the reuse of existing buildings minimum requirements comply with Traditional Neighborhood Overlay Zone 1 (TNOZ1).

Chair Carrara noted “we have a motion and a second, is there any other discussion?”

A brief discussion about the physical state of the buildings on the lot followed with Ms. Vann noting “the Board has found the existing 2-unit residential structure is in such a state of disrepair that rehabilitation would be cost prohibitive and therefore should be removed.”

Vote: All in favor but Mr. Ward and Ms. Ferstenberg who were opposed.

Lot and Yard Standards: A motion was made/seconded (Vann/Zeller) that the granting of LCA lot sizes as shown on a LCA Lot Size Chart on page 6 of the Plan Set and demonstration that the total frontage provided exceeds the total frontage required in accordance with the requirements for a condominium development as

applied to a TNOZ1 development, the minimum requirements for lot and yard standards have been met.

Chair Carrara noted “we have a motion and a second, is there any other discussion?” No further discussion

Vote: All in favor

Setbacks Requirements: A motion was made/seconded (Vann/Zeller) that the Board finds that with the granting and ratification of a waiver of setbacks as shown on the Porch Setback Encroachment table shown on page 6 of the Set Plan, the minimum requirements for setbacks have been met.

Chair Carrara noted “we have a motion and a second, is there any other discussion?” No further discussion

Vote: All in favor but Ms. Ferstenberg who was opposed.

Building Design: A motion was made/seconded (Vann/Zeller) that with recognition of the diversity of building designs and architectural styles on Concord Street, the Board has reviewed the proposed architectural renderings and footprints and finds that the building entrances are oriented to either Concord Street or the internal access road and that the height, scale and massing of the buildings, the sizing, orientation, and spacing of doors and windows, and the shape and orientation of the rooflines reasonably reflect other existing residences within 300 feet of the property in both directions and on both sides of the street and the TNOZ1 “Site and Building Design Guidelines” and the minimum requirements have been met.

Chair Carrara noted “we have a motion and a second, is there any other discussion?”

Mr. Zeller noted he thought the design elements (architectural renderings, etc.) of the project “exemplified the best ideals of what we want in new development.”

Vote: All in favor but Mr. Ward who was opposed.

Lot Coverage: A motion was made/seconded (Vann/Zeller) that based on revised Lot coverage table by LCA shown on Page 6 of the Plan Set, the minimum requirements for Lot Coverage have been met.

Chair Carrara noted “we have a motion and a second, is there any other discussion?” No further discussion

Vote: All in favor.

Parking and Driveways. A motion was made/seconded (Vann/Zeller) that given that the applicant has demonstrated it is not reasonable or feasible to create parking to the rear of the buildings and that all garages are located at least 20 feet behind the front building line, and further that with the granting a waiver of driveway setbacks for 6 lots, the minimum requirements for parking and driveways have been met.

Chair Carrara noted “we have a motion and a second, is there any other discussion?” No further discussion

Vote: All in favor but Mr. Ward and Ms. Ferstenberg who were opposed.

Mr. Zeller then read a prepared statement to his fellow Members: “The development we are going to vote on today on Concord Street has been under review and revision for quite some time. Many that have attended public meetings have not been shy expressing their disdain for any development of any kind on this location. Some of you have complained of the housing developed on Church Street, and Vine Street before that. It is not just “NIMBY”, or *not in my backyard*, it is fundamentally development of any kind, anywhere. If you read our local paper, you may have noticed that there is continuous expansion of a large business in Jaffrey, that requires additional housing in the immediate vicinity. The demand for new housing is here, like it or not. Development will benefit the town of Peterborough from the not insignificant taxes these new properties will bring. In this latest case, the road, Woodman’s Lane, will be a private road, not requiring town plowing or maintenance. I for one, embrace this housing development. Many of the public seem to think that the Planning Board can prohibit a project if enough of the public is against it. This is not the case. If a project meets zoning regulations, with a minor variance or two, for good reasons, we must approve. Should we just say, “We don’t like what you are trying to do here, Mr. Applicant, therefore your application is denied?” We, the town would be in for considerable legal litigation, which the town will always lose. Approval hinges on meeting or exceeding zoning regulations, not the whim of the public.”

Chair Carrara noted the former Woodman’s Florist was a nonconforming use “and with this development we are going back to a conforming use.” He went on to say, “there are two units in the house and an apartment above the Florist storefront which are being replaced by 14 dwelling units.”

Citing the reference to the Church and Vine Street projects (TNOZ1 Projects) Ms. Ferstenberg noted “those developments feel more spread out with provisions for recreation and parking. This is on a busy street and some people coming in expecting the country setting are going to get the exact opposite. We have had genuine concerns from the public but with that said I believe the applicant has gone through a lot of trouble to please and the application should be granted.”

TNOZ1 Conditional Use Permit:

Ms. Vann told the Members “having found the minimum requirements for the project under TNOZ1 have been met and the TNOZ1 Site and Building Design Guidelines are compatible with the neighborhood, we need to approve the Conditional Use Permit.”

A motion was made/seconded (Vann/Zeller) that the Planning Board grant the Conditional Use Permit for this project.

Chair Carrara noted “we have a motion and a second, is there any other discussion?” No further discussion

Vote: All in favor but Mr. Ward who was opposed.

Subdivision and Site Plan Review:

Ms. Vann noted the Board’s review of the Subdivision Design Standards and Site Plan Review Performance Standards related to this project.

A motion was made/seconded (Vann/ Zeller) to grant Subdivision and Site Plan Approval of the Plan entitled “Condominium Subdivision and Site Plan, Woodman’s Place”, Parcel Numbers U016-010-000 & U016-042-000, located at 69 & 75 Concord Street, Peterborough, NH, dated June 14, 2019 and Revised November 15, 2019, Prepared for EAM Peterborough Holdings, LLC, by Fieldstone Land Consultants, PLLC, consisting of 21 pages, as it may be revised, and architectural renderings prepared by Catlin and Petrovick Architects PC, dated September 11, 2019, with the following conditions prior to signature of the plan:

- a. Submit a request to voluntarily merge the two existing lots.
- b. Obtain Parcel Numbers from the Assessing Department for each condo unit to be added to the plan.

- c. Obtain Fire Department approval of the loop road name and assignment of house numbers for each unit, to be added to the plan.
- d. Submit condominium documents for review and approval by the Town Attorney. Said documents shall include a provision prohibiting expansion of building footprints or expansion of paved driveway areas, beyond that which is shown on the approved plan.
- e. Demonstrate receipt of all State and Federal permits, including permits associated with filling in the Flood Plain.
- f. Submit an estimate for the cost of constructing the access road, provide security and a performance agreement in a form and amount approved by the Town Attorney.
- g. Submit revised plans showing minor modifications as directed by the Office of Community Development and Utilities Superintendent including plan corrections, clarifying notes, spot elevations, and other such plan modifications as may be needed in addressing minor comments raised by Staff.
- h. Prior to issuance of a Building Permit, the applicant shall install LCA (Limited Common Area) boundary markers in the field.
- i. Prior to issuance of Certificates of Occupancy for Units 11-16, the applicant shall provide an elevation certificate for each unit certifying the first-floor elevation is in compliance with the Flood Plain District Ordinance and the Building Code.

Chair Carrara noted “we have a motion and a second, is there any other discussion?” No further discussion

Vote: All in favor but Mr. Ward who was opposed.

Ms. Vann concluded “OK, the last thing is to move to extend the timeframe for meeting Site Plan Review approval conditions to a period of one year, to be consistent with the timeframes for meeting Conditional Use Permit and Subdivision approval conditions.” Ms. Vann noted the differences in the timetables of the approvals “make things really complicated, it is stupid, I don’t know why we do it, it needs to be addressed.”

A motion was made/seconded (Vann/Zeller) to have the timeframe extended for meeting Conditions set in Site Plan Review approvals to one year to be consistent

with the timeframes for meeting Conditional Use Permits and Subdivision approval Conditions, which will be November 25, 2020.

Chair Carrara noted “we have a motion and a second, is there any other discussion?” No further discussion

Vote: All in favor.

Francie Von Mertens introduced herself and spoke very briefly about community and communication. She said she felt the 20 to 30 to 40 people who came out for the public hearings on this case did so to try to make it better “and to dismiss us as NIMBY seems like an opposition to all development in town.” She noted that dialogue makes for a better product and all involved should remain open-minded to seeing the nuances of zoning. “They are not a fixed entity” she said adding “and that many of the public’s suggestions were very valid.” Chair Carrara noted “the public’s opportunity to express their feelings was an important factor.” Ms. Von Mertens replied, “which we were given.”

Chair Carrara went on to note that it was tough for the Board to work through the process. “It was a learning experience for me” he said adding “but that is what we are all here for.”

Other Business:

Mr. Throop briefly reviewed the two cases for December including waivers for the Village at Stone Barn to extend the conditional approval to meet conditions set by the Board for both Planning Board Subdivision (Conditional Approval, expiring December 17, 2019) and Site Plan Regulations (Compliance with Conditions) expired April 17, 2019) as well as the Conditional Use Permit Process (Termination and Transferability, expiring December 11, 2019).

Mr. Throop also noted a Preliminary Consultation and Design Review for a three (possibly four) lot subdivision under the Open Space Residential Development regulation. “It is a conceptual presentation, so the focus is on the characteristics of the landscape and what is set aside for conservation assets” he said.

In closing Mr. Ward told the Members “we are all equal voting members and we are all entitled to interpret the facts as they are presented and then vote as we see fit.” He went on to say if a vote goes against the consensus of the group “a sense of intimidation is uncalled for.” Chair Carrara acknowledged Mr. Ward’s sentiment noting “I did not sense any intimidation.” Mr. Ward replied, “you may not have but I did.” Ms. Ferstenberg interjected “I did as well.”

Mr. Ward briefly reviewed the requests for waivers in the case before them. “There is a reason for ordinances” he said adding “this project has asked for waiver after waiver. My interpretation is that the applicant should know the parameters of the ordinance and they have not. I have felt inundated by waivers.” “I did too” said Ms. Ferstenberg adding “and I think the reference and assumption to a NIMBY attitude is disgraceful. We need to think about whether we are serving the public or we are self-serving. I believe we are here to serve the public, *that* is why we are here.”

The meeting adjourned at 7:20 p.m.

Respectfully submitted:

Laura Norton

Administrative Assistant