

1 **AMHERST PLANNING BOARD**

2 **Wednesday June 1, 2016**

3
4 In attendance: A. Rosenblatt- Chair, P. Lyon- Selectman Ex-Officio, S. Wilkins, M. Dell Orfano, R. Hart,
5 G. Leedy, C. Harris and S. Keach as interim staff representative.

6
7 A. Rosenblatt called the meeting to order at 7:30pm.

8 **NEW BUSINESS**

9 **CASE # PZ7394-050216. HJC Realty Trust (Norm Hebert, Trustee) – 22 Hickory Drive, PIN# 002-163-064**
10 **in the Residential/Rural District. Subdivision application to convert an existing two-family dwelling to**
11 **a two-unit condominium.**

12
13 Maria Dolder, Attorney, and Norm Hebert, owner/ representative were present.

14 The applicant proposes to change the ownership of an existing dwelling to a two-unit condominium.
15 The building is a two-story structure; one unit would be on the upper level and the second would be on
16 the first level. An existing gravel drive would serve Unit #1 and an existing paved drive would serve Unit
17 #2. The lot exceeds the two-acre minimum lot size for the district. The frontage is 50 feet shy of the
18 required 200 feet, but this is an existing lot of record so that is not an issue for this application. Also of
19 note, the application proposes a two-unit development, whereby the zoning district does not allow
20 two-family dwellings. This property received a special exception approval from the ZBA in 1990 to allow
21 a two-family use in the house. Subsequent to that, an occupancy permit has been issued by the
22 community development office for the approved two-family use. The Declaration of Condominium
23 has been sent to the Town Attorney for review. As of the writing of the staff report, no comments
24 had been received from Mr. Drescher.

25
26 G. Leedy asked if it's an existing two-family. Yes. Will the use stay the same? Yes. The applicant is just
27 asking for a new form of ownership. G. Leedy asked about the common areas. M. Dolder explained the
28 decks are private and the rest of the lawn area will be common/ shared between owners. This is all
29 addressed in the condo docs- even landscaping and where grills are allowed.

30 G. Leedy said there appears to be ample space for parking. Each unit may want to have their own
31 separate space other than for parking. M. Dolder said the lawn is more difficult to divvy up due to
32 maintenance issues/consistency.

33 G. Leedy asked why there is a fence and what the licensed land is. N. Hebert answered that the fence
34 was originally to keep deer out of the garden. Mormon LLC, one of the neighbors, owns the land and the
35 applicant is allowed to use it upon reasonable notice. G. Leedy told the owner he may want to clean up
36 that language before he conveys the property so there are no misunderstandings in the future about
37 that land.

38
39 S. Wilkins said the board has not received Town Counsel's comments on the condo docs yet.
40 And she is also concerned about the condo association having only two parties- or any even number. M.
41 Dolder said that is addressed in the docs. If there is an issue, the process is mandatory mediation and
42 then court if needed. S. Wilkins said she has no objection to the proposal.

43
44 M. Dell Orfano asked about the licensed land. M. Dolder said the licensed land is like a lease- the
45 abutters granted that land to this property through a formal agreement. They can take it back if they
46 wish. M. Dell Orfano asked the owner if he needs that land. It's 8341 sq. ft. and it seems to complicate
47 things in terms of the association and the relationship with the abutters.

M. Dolder explained that the bottom unit has a patio and the top unit has a deck above the patio. That layout is how this property has been in use as a two family.

M. Dell Orfano asked if there are fire barriers between units and if the fire department has signed off. The owner stated the house had to be built to code when it was divided into two units and further explained the house was rebuilt to code last year after a fire.

C. Harris asked if there is a money account being set up for the association. Yes, the condo documents address that and allow for that account to be set up.

M. Dell Orfano asked if the owner is going to fund a reserve/ replacement account prior to selling the property. No. that's not typical.

Public Comment

R. Bosier 17 Hickory Drive

When did this property become a multi- family? G. Leedy and A. Rosenblatt explained it was in 1990 per a ZBA decision. A. Rosenblatt and S. Keach further clarified that a change of legal ownership is what is being sought, but the actual use of the property is remaining the same- two separate units.

A member of the audience said it was originally a single family house. He objected to its becoming a two-family home back in 1990.

R. Thibideau

He created that development in 1974 and it was built as a single family home. He clarified what type of septic system he put in at that property so that the board was aware. A. Rosenblatt summarized the history of this property going before the town boards and what was being sought tonight.

S. Wilkins confirmed with the applicant that the fire was in 2013 and that the property has been in operation as a two-family dwelling.

Someone from the audience asked if the owner can build more condos on that lot. No he can't.

G. Leedy moved to accept the plans for review. S. Wilkins seconded. The motion carried.

G. Leedy said they haven't seen the condo docs. Town Counsel may not have anything to say about them, but he is reluctant to approve something that's conditioned on his approval. M. Dolder has no issues with making approval conditioned upon Town Counsel's review of the documents.

G. Leedy moved to approve the application upon acceptable resolution of any comments Town Counsel has and provided the water resources management plan prepared by Sandford Surveying and Engineering including the conditions attached to it by the Planning board of 2012 along with the letter from the planning office enumerating the conditions are included in the Declaration of Condominium. S. Wilkins seconded.

G. Leedy further amended that the applicant will either extinguish the license or include the license documents in the condo documents and convey that license to the owners.

S. Wilkins seconded the amendment and commented that if the license isn't running with the land, the fence near the lot line should come down.

A. Rosenblatt said he is leaning towards tabling the decision until Town Counsel can look at the documents.

G. Leedy withdrew his motion. S. Wilkins accepted.

G. Leedy moved to table the case to the first Wednesday in July (6th). P. Lyon seconded. All in favor.

G. Leedy explained to the abutters that they will not receive further notice for this case at that meeting. This is their notification.

CASE # PZ7398-050216. Shrek Properties, LLC – 3 Tech Circle, PIN# 002-020-006 in the Industrial District. Non-Residential Site Plan Review application to construct a 4,752 square-foot multi-unit commercial building.

The application is for a Design Review of a proposed multi-unit commercial building. The applicant wishes to proceed with a design review so that the overall site plan can be discussed and three waivers presented for discussion and ultimately a vote. At the conclusion of the hearing a clear path will be set so that the application can be completed and submitted for final Planning Board review.

Kevin Anderson of Meridian Land Services presented. With him was Matthew Arel. K. Anderson explained that this is a design review application- he is not presenting a formal site plan.

There are lots of issues with the property including:

- a funny shaped lot with access issues
- near a cul-de-sac
- steep slopes
- ledge on site
- existing electrical transformer underground

He is looking for direction and guidance from the board.

The building is a three story commercial space. There are three units. There is a garage on the lower level that extends through much of the second level. The two lower units are owner occupied and the third floor is tenant unknown.

He is looking for two waivers:

Driveway regulation: 8% grade to 12%. That is what the neighbor has and that spot is how you have to access the property.

Landscape design: The project is expected to cost under \$500,000.

He is also seeking clarification about buffer areas. They are not required if two abutting properties have the same use, but typically this board prefers buffer between commercial properties so he would like input on this.

Discussion

S. Wilkins asked how many feet the 12% grade would be for. About 80

C. Harris said that salt will come up as an issue.

K. Anderson said he has put in a level platform at the bottom to wait for traffic.

He further clarified that Better Built Homes occupies the lower two units. The garage has high bays (20ft) that occupy the first and second floors. The remaining part of the second floor has office area.

C. Harris clarified that typical cost of this type of property is \$75-\$95 per sq. ft. to build. The owner clarified that the third floor will be fitted out by the tenant. The owner clarified some of the building

materials and style type for the new building. K. Anderson addressed a parking comment in the documents saying the number of parking spaces are yet to be finalized- there might be one more or less parking space that the plan shows.

S. Wilkins asked about floor area ratio. S. Keach said this plan conforms to the regulations.

G. Leedy gave some opinions as follows: it doesn't look like enough open space, but the calculations say there is. He doesn't like the 12% grade. This driveway is north facing so there will be issues with ice. You need to find four feet. You only need to take 1/3 of the building down four feet, but maybe there are ledge issues. The owner confirmed the ledge issue. G. Leedy is ok with no landscaping if they are exempt from landscaping, but he prefers it be there. S. Wilkins pointed out that they are not excepted from it, but that the board can waive it for projects under \$500,000.

G. Leedy said the restriction of salt and de-icing should extend to that area with the infiltration basin. K. Anderson said that is understandable and similar to what they requested of the property he worked on across the street.

C. Harris asked if Jeff Luter of Fulcrum could open up any space for a secondary egress. The owner thinks Jeff is going to put something on that land so that won't allow an egress.

R. Hart wanted to confirm no oil / antifreeze will get into the aquifer. K. Anderson said the concrete floor should prevent that. G. Leedy suggested a membrane should be added.

M. Dell Orfano asked about the electrical box on the property with no easement. K. Anderson said they haven't found an easement for it so far. It's there on the property so they can't move it or manipulate the ground around it. He further asked if they considered putting a hydronic heat system under there. They had not considered it, but a radiant drive is an idea to consider.

A. Rosenblatt stated for the record that these are informal comments and are not binding. The reaction of the board may change depending on which members are present when the case is next discussed.

S. Keach said if both the board and the applicant agree that this concludes the design review, it starts the clock on the next steps in the process.

G. Leedy moved to close the design review process. S. Wilkins seconded. The motion carried.

CASE #: PZ 7399-050216. Wolf Trust LLA – 369 Boston Post Road, PIN# 004-032- 001 in the Industrial and Residential/Rural Districts. Subdivision application to adjust lot lines and consolidate portions of lots to create two lots from three lots.

The applicant owns three contiguous lots of record with a combined area of approximately 23.07 acres. Lot 32 (14.5+acres) enjoys frontage on both Boston Post Road and Merrimack Road while vacant Lot 32-1 (0.2+acres) fronts exclusively on Boston Post Road. Lot 32 contains a dwelling, outbuildings and related improvements including a well and septic system. Lot 33 (8.4+acres) is a vacant back lot situated immediately west of Lot 32 and has no frontage on a public way. As shown on the proposed lot line adjustment plan, all of Lot 33 and approximately one-half of Lot 32 are comprised of wetland and situated below the base flood elevation (217). At present, only Lot 32 conforms to applicable minimum lot area and frontage requirements contained in Article IV –Section 4.3.C of the Zoning Ordinance.

On April 06, 2016 the applicant's consultant appeared before the Board for the purposes of engaging in conceptual discussion relative to a planned lot line adjustment involving the three subject parcels. At that time the applicant's consultant presented a drawing that conceptually depicted a series of lot line adjustments that would combine to result in three parcels; one containing the existing dwelling and outbuildings presently situated on Lot 32, as well as two additional parcels, situated immediately to the north with frontage on Boston Post Road and intended for building purposes. As presented that evening, neither of these two additional parcels would contain two acres of qualifying land area. On that basis the majority of Planning Board members in attendance recommended that the applicant pursue lot line adjustments which would result in reconfiguration of the land to yield a single additional lot.

M. Hammer of Meridian Land Services presented the new plan to the board of consolidating the three lots into two lots where one has an existing dwelling and the other will become a buildable lot. He described the proposed lot line adjustments and lot details by utilizing the map.

Discussion

P. Lyon confirmed that lot 32-1 would still be non-conforming, but would have more land than what is there now.

G. Leedy stated that attention was paid at the conceptual meeting and he appreciates that.

S. Wilkins had him show on the map where the new dwelling would be. She said this is not an outrageous proposal. The original proposal was.

Public comment

Dan and Sue Rondeau 105 Merrimack Rd

These abutters asked for some clarification and it was answered that only one single family home could be built on the property and it would be in the one acre that is buildable. This area was highlighted on the map for them.

It was clarified for the board that the assessing department doesn't change map/lot parcel IDs of parcels that have an existing dwelling. That's why they will end up with ID numbers 32-1 and 32-2, but no 32.

G. Leedy moved to accept the plan for review. S. Wilkins seconded. The motion carried.

G. Leedy moved to approve the application subject to the following staff comments and staff recommendations to be satisfied within 90 days:

Staff Comments:

- Both the title block to the plan and the text of Note No. 1 on the drawing incorrectly reference Lot 32-1 as Lot 31-1. Further, the final sentence of Note No. 1 incorrectly suggests Parcel C, as shown on the plan, is presently part of Lot 32 when it is actually a portion of Lot 33. We recommend these errors be corrected.
- We recommend the text of Note No. 3 be expanded to indicate portions of the subject parcels are situated in the Flood Plain Conservation and Wetland & Watershed Conservation Districts.
- We recommend the project plans be expanded to graphically depict the locations of minimum front, side and rear yard dimensions, referenced in the text of Note No. 3, on each of the two adjusted parcels.
- For clarity, we recommend the word "interior" be inserted into the text of Note No. 8 between the words "existing" and "lot".

- Note No. 9 references an existing access easement which encumbers a portion of abutting Lot 4-34-22 for the benefit of the subject land. We recommend the text of this note be expanded to cite the HCRD book and page or plan number at which these rights of access are established.
- In order to satisfy the requirements of Section 4.5.E.4 (k) of the Subdivision Regulations we recommend the final lot line adjustment and consolidation plat be stamped and signed by a Licensed Land Surveyor.
- We recommend the final plat be expanded to specify when, by whom and under what criteria the extent of wetland shown on the plat was delineated and defined. The final plat should also be stamped by the Certified Wetland Scientist that performed this task.
- We recommend the final plat be expanded to identify the current map and lot numbers of those three parcels to be consolidated or adjusted under this application.
- We recommend the existing dwelling and outbuildings situated on the subject premises be labeled as such.
- We recommend the final plat acknowledge both Boston Post Road and Merrimack Road are Class V public ways.
- We recommend the text of Note No. 4 be revised to indicate portions of this site, as shown on this plan, are situated in Special Flood Hazard Areas AE and X. We also recommend the final plat indicate the Base Flood Elevation of Special Flood Hazard Area AE is 217.
- The Staff Report prepared in advance of the April 6th conceptual consultation “recommended that the existing house lot retain the map and parcel number 004-032-000 for consistency with the Assessing Department’s lot numbering standards”. We continue to offer and support this recommendation.

Staff Recommendations:

- a. Receipt of project plans revised to fully satisfy each Staff Comment offered in this Staff Report. Dated June 1, 2016
- b. Receipt of written acknowledgement from a Licensed Land Surveyor that the boundary monument specified as “to be set” on the plat has in fact been installed as shown.

G. Leedy further recommended that conservation commission placards be placed on the property marking the wetland setback. P. Lyon seconded. The motion carried.

OTHER BUSINESS

Minutes: May 4, 2016

G. Leedy moved and S. Wilkins seconded to approve the minutes of May 4th as submitted. All in favor with G. Leedy abstaining.

S. Wilkins moved to adjourn at 9:10pm. C. Harris seconded. All in favor.

Respectfully submitted,
Jessica Marchant