

TOWN OF AMHERST
Planning Board

September 4, 2019

APPROVED-Amended

In attendance: Michael Dell Orfano- Chair, John D'Angelo-Selectman Ex-Officio, Rich Hart, Marilyn Peterman, and Cliff Harris.

Staff present: Nic Strong, Community Development Director, and Kristan Patenaude, Minute Taker.

Michael Dell Orfano called the meeting to order at 7:31 pm at Town Hall.

Sally Wilkins and Brian Coogan entered the meeting.

NEW BUSINESS:

- 1. CASE #: PZ11604-080519 - Robert H. Jacobson Revocable Trust, Laurie Stevens Trustee (Owner) & TransFormations, Inc. (Applicant), 17 Christian Hill Road, PIN #'s: 005-148-000 & 005-100-000 – Request for approval for a Conditional Use Permit to depict a Planned Residential Development per the Integrated Innovative Housing Ordinance (IIHO). Zoned Residential/Rural.**

Sally Wilkins recused herself from the case.

Michael Dell Orfano stated that this meeting was anticipated to be over-capacity for the Town Hall's meeting room, due to the large crowd expected. In order to accommodate the Fire Department regulations, the venue will be moved to a larger room at the Souhegan High School.

John D'Angelo moved to recess the meeting and reopen it at 8:00pm at the High School. Marilyn Peterman seconded.

Discussion:

Cliff Harris explained that the Board is in possession of a letter from Cronin, Bisson, & Zalinsky, regarding lack of ample notification and time changes for this meeting. He suggested that the Board table this hearing, re-notify the abutters, and hold the hearing at the later date.

Michael Dell Orfano stated that he would like to recess the meeting to the other venue and have that discussion there.

Town Administrator Shankle suggested that, as there were no members of the public present at Town Hall at that time, the public appeared to be well notified of the changes.

Marilyn Peterman stated that the changes are notified on a sign downstairs outside of Town Hall. It is unfair to the applicant to table the hearing to another date.

In response to a suggestion from Marilyn Peterman, Nic Strong, Community Development Director, stated that the town's attorney, Bill Drescher, preferred that the

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meeting be re-noticed, as Cliff Harris suggested, and his second choice was that the meeting would be adjourned to an alternate location this evening.

Town Administrator Shankle suggested the Board continue with the meeting at the High School and that, if a complaint is received, the meeting just be reheard at a later date.

Michael Dell Orfano stated that Brian Coogan will sit for Sally Wilkins during this case.

Brian Coogan stated that the Board has done everything in their power to discuss these changes with the general public in the correct format. There is no accommodation that works for everyone. He would like to give the public the opportunity to voice their opinions and then make a conclusion regarding moving forward with the hearing.

**John D'Angelo moved his previous motion: to recess the meeting until 8pm at the High School, where the Planning Board will reconvene and reopen CASE #: PZ00604-080519. Marilyn Peterman seconded.
Voting: 5-1-0, motion carried. (C. Harris opposed)**

The Planning Board was in recess at 7:40pm.

The Planning Board reconvened at 8:03pm at the Souhegan High School auditorium.

Michael Dell Orfano stated that the Board procedurally opened their meeting at 7:30pm at Town Hall. No testimony was heard during that time. The Board has now reopened their meeting and will be dealing with the Brook Road case first.

- 2. CASE #: PZ11605-080519 - 24 Brook Road, LLC, c/o John Walsh (Owner & Applicant), 24 Brook Road, PIN #: 010-026-000 – Request for approval for a Conditional Use Permit application for a proposed residential subdivision over Tax Map 10-26, utilizing the Integrated Innovative Housing Ordinance (IIHO). Zoned Northern Rural.**

Arnold Rosenblatt moved to table the hearing. Cliff Harris seconded.

**Arnold Rosenblatt amended his motion to table the hearing to October 2nd. Cliff Harris seconded.
All in favor.**

- 1. CASE #: PZ11604-080519 - Robert H. Jacobson Revocable Trust, Laurie Stevens Trustee (Owner) & TransFormations, Inc. (Applicant), 17 Christian Hill Road, PIN #'s: 005-148-000 & 005-100-000 – Request for approval for a Conditional Use Permit to depict a Planned Residential Development per the Integrated Innovative Housing Ordinance (IIHO). Zoned Residential/Rural.**

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Michael Dell Orfano stated that Sally Wilkins recused herself from this hearing. Brian Coogan will sit for her. He explained that the Board will hear public comment regarding the scope of work of this project, review the application, and then determine the next steps.

He asked Nic Strong if the application was complete.

Nic Strong stated that it is up to the Planning Board to determine if an application is complete; however, there are sections of this application, regarding the IIHO that are not complete.

In response to a question from Michael Dell Orfano, Nic Strong stated that there had been no waivers requested for this application.

Cliff Harris explained that the Board is in possession of a letter from Cronin, Bisson, & Zalinsky which states that there are issues regarding the notification of the meeting and the changes of its location and time. Cliff Harris suggested that the Board not hear the case, but reschedule it at a different date, due to this letter.

Michael Dell Orfano explained that it was thought the crowd for this meeting might exceed the fire regulations at Town Hall, so changes were made. The Board gave its best effort to make public the venue change. The meeting was opened at Town Hall, at 7:30pm, as it was thought to be the best thing to do procedurally. There was no testimony heard during this time. He suggested that the public hear from the developer and ask questions of him while he's here.

Arnold Rosenblatt questioned if the group of abutters, through their lawyer, is asking that the meeting be adjourned, due to the change of time and location, because if members of the public thought the meeting started at Town Hall at 7:30pm, no one appeared there at that time.

Brian Coogan stated that he respects and represents the abutters in this case, but he believes that the broader community also has the right to hear this plan from the developer. The application package is currently incomplete, so the Board will not approve it tonight. However, the members of the public that are here can hear from the developer and have a chance to bring that information to others in the community.

Rich Hart and Marilyn Peterman agreed with Brian Coogan.

In response to a question from Michael Dell Orfano, Daniel Muller, of Cronin, Bisson, & Zalinsky, stated that he was unsure if all of his clients were present at the meeting or not.

Daniel Muller stated that his letter addressed issues with the way notices were made, both to the abutters and the general public, for this hearing. These issues become more complicated due to the Board meeting at Town Hall at 7:30pm, because the last posted notice indicated the venue being Souhegan High School at 8:00pm. The Right to Know law requires a posted notice at least 24 hours in advance of any changes.

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In response to a statement by Daniel Muller, Michael Dell Orfano stated that Sally Wilkins also recused herself from the discussion of this case at 7:30pm.

In response to a question from Michael Dell Orfano, Daniel Muller suggested that the abutters and public be re-noticed of this hearing in a timely fashion.

Marilyn Peterman stated that it was procedurally suggested by the Town's attorney to open the meeting at 7:30pm at Town Hall, recess the meeting, and reopen it at 8pm.

Michael Dell Orfano suggested closing the hearing and re-noticing it to a date certain.

In response to a question from Michael Dell Orfano, Daniel Muller explained that his letter to the Board also addressed the suggestion that one of the Board members, Marilyn Peterman, disqualify herself from the case, due to comments made on social media.

Arnold Rosenblatt stated that, if the Board has decided to not have this hearing, then no further discussion should be had at this time. Attorney Muller claimed that adequate notice was not given. He would like the eventual decision on this case to be as credible and sustainable as possible. Thus, taking the conservative approach of rehearing this case at a different date makes the most sense.

Arnold Rosenblatt moved to defer the meeting; it will be re-noticed and the date for the meeting will be based on this re-notice. Cliff Harris seconded.

Discussion:

The Board discussed the date for this re-hearing. The Board also discussed if tonight's meeting actually constitutes a "meeting" or not.

Brian Coogan suggested that the developer still has information to offer and the option to have a forum to discuss it is still here. The public can still have questions answered. This can be a space to get better educated on the matter.

Arnold Rosenblatt moved his previous motion.

Voting: 5-1-0; motion carried (M. Peterman opposed)

Kelly Schmidt, 11 Patricia Lane, stated that, while she is concerned regarding the possible development that was going to be discussed tonight, she is also here to hear more about the Master Plan process and how the proposed developments in town relate to the Master Plan.

Michael Dell Orfano stated that the Planning Board has Master Plan hearings and that usually no one from the public attends them. He encouraged the public to come to these hearings and work sessions.

Linda Kaiser, 6 Manchester Road, stated that she went into Town Hall, paid \$35.00, and picked up the whole packet of information for the Planning Board meeting. She found it extremely

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helpful in answering some of her questions. She stated that it would also be helpful to have an extra sheet explaining how the Master Plan fits into the proposed development. She wishes that someone would take the time to sit down with the public and show them the section of the Master Plan that is applicable to this development conversation.

Arnold Rosenblatt stated that he disagreed with Ms. Kaiser, and that it would be unfair to ask a town employee to identify the parts of the Master Plan that refer to a specific application.

Marilyn Peterman stated that it's an excellent point that the public can go into Town Hall and get a copy of all of this information in order to better understand the application.

Kelly Mullin, 48 Christian Hill Road, encouraged the public to come to the next meeting. She stated that the Village is at stake and there have been no straight answers regarding anything.

Sally Wilkins stated that she will be sitting on the Board again for the rest of the meeting, as the hearing had been closed. The Jacobsen case was closed, but the rest of the regularly scheduled Planning Board meeting was not.

OTHER BUSINESS:

2. Minutes: August 7, 2019

John D'Angelo moved to approve the minutes of August 7, 2019 as presented. Cliff Harris seconded.

Voting: 5-0-1. (C. Harris abstained)

3. Inspection Report from Keach – Nordstrom Associates, Inc., re: Founder's Way, for the Board's information.

In response to a question from Cliff Harris, Nic Strong stated that that this document is for the Board's information only.

Arnold Rosenblatt moved to adjourn at 9:05 p.m. Cliff Harris seconded.

Discussion:

George Bower, 183 Mack Hill Road, explained that he is the moderator for the Souhegan School District. He expressed concern that the Board allowed for counsel to essentially intervene under the guise that he represents members of the community. As a non-member of the community, his ability to speak should be only by action of the Board. The counsel also was not asked to identify any individual that he represents.

George Bower also explained that, if the meeting was improperly noticed, than the rest of the meeting could not be completed, and thus, the Board could not take any action on the Brook Road application or the Jacobsen application.

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Michel Dell Orfano stated that the Board was advised by Town Counsel to open the meeting, recess it, and reopen it at the High School.

George Bower stated that the Board didn't appear to make the decision based on Town Counsel's recommendation, but instead appeared to accept the premise of the intervener's counsel. As the meeting was not properly noticed, no action could be taken.

Michael Dell Orfano stated that the Planning Board makes sure the applicant can use his/her land rights without judicial interference. This decision was made to ensure that the applicant has a clean slate in order to move forward without any of the legal noise that might otherwise interfere.

The meeting was adjourned.

Respectfully submitted,
Kristan Patenaude

Minutes approved as amended, October 2, 2019