

## **Minutes from Meeting of July 9, 2003 – Lyons/Friedrich, Washington Green**

Members Present: Stuart Schulman, Dave Gandle, Mark Mulligan, Chase Duffy, Bob Cadle

The Chairman reconvened the Lyons/Friedrich hearing.

Discussion ensued regarding variance justification and the site walk.

Atty. Lyons noted that the lot area is non-conforming and that it is an independent lot. He said that there were probate issues because it was not done properly. He said that it has been assumed to be a building lot. He said that there are topographical issues and a hardship to the owners if no variance is granted, and noted that otherwise the lot and proposed structure will be in full compliance with zoning. He said that the other non-complying buildings would be removed if necessary. He said that his clients have owned the property for 34 years and have always owned in common across the street but that doesn't mean a merger. He said that there was common ownership of abutting lots from 1958 to 1961 and the lot in question has a sometimes been used as a residence which also makes it non-conforming.

Board felt that the lot is ample in size for a building lot in the Lost Lake area and no one is visible as an abutter. Of note: the son's lot is smaller than the lot in question.

Mr. Mulligan noted that the lot is unobtrusive to abutters.

The Chairman said that one reservation is the legal issue, which is the common ownership from 1958 to 1961 and the probate issue.

Discussion ensued regarding a will that has disappeared which allowed the prior owner to sell the lots separately (in 1961). The abutting lot is 2 acres. In 1966 the lots had been sold into separate ownership.

The Chairman noted his willingness to grant a variance b/c the lot is close to being a legal lot and only owned together for three years in the late 50s and early 60s.

Discussion ensued regarding whether a variance could be granted b/c the only hardship is financial and not size, shape, topography, etc.

The Chairman felt that the complicated legal issues make a variance okay to grant.

Mr. Mulligan said that neither side could prove common ownership, making this a limbo situation.

The Board moved to grant a variance with condition that the two existing structures not be used as a dwellings and be used for only storage. Also, the decision needs to be filed at the registry.

Of note: applicant was unaware of title issues when purchasing the property.

The vote was unanimous, after the motion was seconded.

The Chairman convened the Washington Green 40b hearing by reading the legal notice and made an introductory statement.

Mr. Mulligan went over the checklist to ensure that all components of the application were present. A narrative statement could be added later but is currently missing. The actual tabulation should be submitted later and there is a need for further a outline of the utilities. He suggested including a more detailed narrative in general regarding everything, and specifically traffic and environmental impact. He said that otherwise the application is basically complete.

Discussion ensued regarding whether a proforma is included.

Atty. Lyons said that the state will generate that information.

The Chairman read the water dept and planning board memos into the record.

Atty. Lyons introduced his clients and Steve Dresser, engineer and Michael Weinmar. The property comprises of 13.5 acres off of Lowell Rd. and frontage on lost lake drive. Of note: there are significant wetlands and power line easement issues. Moulton proposed a subdivision on the site with 7 houses in a similar configuration. The topography is comprised of glacial terrain, eskers and undulates. From a design standpoint, the project is near wetlands, with buffer of 100 feet and 200 feet from the stream, minimizing disturbances to wetlands. He said that he has met with Geld, to work out a buffer using a hill between Geld's substations and the proposed dwellings. He said that a fence will be constructed which will screen and provide a noise buffer. Of note: there will be 11 affordable units.

Discussion ensued regarding the visibility of the Geld substation.

Further discussion ensued regarding what variances are actually required. There are many wetlands on the property and the applicant is trying to minimize any cutting and filling. Also, a discussion of frontage available ensued. Atty. Lyons said that only about one unit will be really visible from Lowell Rd.

Russ Tanner presented a big 40b picture, as a consulting engineer from Stockard and Engler. He said that projects have been constructed since the mid 1980s; the kind of housing built was large-scale section 8 federal rental housing typically consisting of three to four story buildings. He noted that some projects were good and some bad. He said that unit ownership did not happen until the mid to late 1980's.. He said that a wide variety of projects under 40b are being constructed and

noted that smaller projects are positive. He said that this is a high quality town house development comprising of 44 condo town houses, 33 of which are sold at a market rate of \$240-260,000. He noted that few people with kids will purchase market rate units. The 11 affordable units go to qualified first time home buyers who still need to qualify for a mortgage. He said that \$170,000. is not real low income housing, but for the working middle class. He said that the town can also offer local preference now when couldn't before. He suggested that maybe some one bedroom units on the ground level could be eligible for seniors, regardless of previous homeownership status. He said that the applicant is expecting a big demand and will use a lottery system. He noted that ZBA responsibility is different under 40b vs. 40a. He said that the presumption is in favor of the applicant and in favor of producing mixed housing on site. He said that the applicant still needs to work with the Board but stressed that the presumption is in favor of the project moving forward to building permit status.

Steve Dressler, consultant for the applicant was present for questions.

The Chairman requested another map showing other relevant info such as drainage, parking, dumpsters, etc.

Ray said that the applicant is starting with the big picture and will bring more details as the process moves along.

The Chairman suggested that that is like the chicken and egg thing.

Discussion ensued regarding meeting with other Boards. Ray said that if the drainage is constructed in the likely location, the project will be outside of Con Com preview.

Discussion ensued regarding the differences between maps.

If septic systems go within 50/100 foot buffer , the Con Com will be involved., as well as for storm water management, etc.

Of note: There are ten dry acres and 90 total bedrooms.

Discussion ensued regarding an age 55+ project. Atty. Lyons said that there other projects involving elders in place.

Atty. Lyons said that something will be happening in the buffer zones, but it is unclear what. He stressed that there will be no building structures in buffer zones.

Discussion ensued regarding the size and scope of septic systems. Each system should handle three three-unit buildings and one for the duplex. The applicant wants to keep each system to below 2000 gallons per day.

Discussion ensued regarding grading, which will all be incorporated into the topography and will be gravity run. Some garages will be in front and some behind, but each unit will have a garage. Atty. Lyons said that there will be two different housing styles, some of which will be built into the hills; style will depend on garage location and topography.

Discussion ensued regarding driveways, etc. size, and communal parking areas. The Chairman wants play areas, etc. shown on map, as well as dumpster location, etc.

Michelle suggested that because the location is in a secondary water district, the Board should hire a hydrogeologist to determine the potential impact on the public water supply.

Discussion ensued regarding hiring of the peer review team. Mr. Tanner said that a hydrogeologist is an unnecessary expense.

Mr. Degen, PB said that it would be prudent to hire a hydrogeologist.

Atty. Lyons said that his client wants to work with Water Dept. and said that the water doesn't flow to Baddacook Pond, but rather to the lake.

The Chairman said that the Board can wait on hiring a hydrogeologist.

Craig Almon, Con Com noted that drainage is very important, and stressed wanting a consultant who is aware of issues, wildlife, etc.

Atty. Lyons said that that has been done and can be documented.

Mr. Barringer, PB said that the applicant should go before them.

The Chairman said that that is helpful and The Board is asking for that, at least on an informal basis.

Mr. Barringer, that when seen as a standard property in 2001, the PB had significant concerns then.

Mr. Cadle asked for specific PB concerns.

Mr. Barringer said that because of the access difficulties, the site requires extensive regrading to create adequate site lines. He noted that there are substantial terrain issues, and much earth removal will be required. He noted serious slopes and serious wetlands and setback issues. He also questioned the livability of a site so near the GELD substation, etc.

Mr. Degen noted that the conventional subdivision plan was for five units, which was withdrawn

because of insurmountable issues.

Mrs. Collette, earth removal inspector, noted that two waivers are being requested. Sediment control, changes to topography, and erosion control are very important aspects, as well as storm water management. She noted that there will also be an exemption to allow removal of excess soil. She said that the applicant needs to go to the Board of Selectmen, and there needs to be a scrutiny of the removal and change. She said that this shouldn't turn into an earth removal operation. She said that the site was torn up badly today for soil testing, and noted that the area was much worse than with normal perk testing. She suggested that there should be temporary restoration of the test areas.

Atty. Lyons said that all soils will stay on site or be offered to the town. He stressed that there will be no sale of soils from the site.

Mr. Gandle asked whether financials used regarding the proximity of the substation as a factor in determining sale prices.

Atty. Lyons said that the substation starts and/or started any discussion of site.

Craig Almon noted the need to file with the Con Com for any site disturbance within wetland buffers.

Atty. Lyons suggested a site walk.

Discussion ensued regarding how to formulate further engineering plans.

Discussion further ensued re: site walk and how much engineering plans should be required and whether the peer review engineering consultant should be included.

The PB representatives all agreed that an engineered plan is best.

Mrs. Duffy expressed concern with the proximity to buffer zone, both from a conservation standpoint and from a substation proximity standpoint.

Mr. Cadle felt that given the topography, it seems to be hard to make a drainage system.

The Board moved to hire Mark Bobrowski and Judith Nitsch Engineering for traffic and engineering. The motion was seconded and passed unanimously, pending approval of the applicant.

Craig Almon asked whether JNEI could handle Con Com issues.

Atty. Lyons noted the desire that JNEI handle as much as possible.

Mr. Degen suggested that the applicant mark the centerline of the roadway so that it could be sited when driven by.

The applicant said that the topography will change so that that is not relevant.

Discussion ensued regarding location of site vs. the substation, etc.

Mr. Barringer said that it is common for the PB to get the center line staked.

The hearing was continued to 9/3/03 at 8:00 pm. The motion was seconded and passed unanimously.

Meeting adjourned at 10:00 pm.