

ZONING BOARD OF ADJUSTMENT  
November 1, 2018

PRESENT: Wendy Juchnevics-Freeman, Chairman, David Lage, Vice Chairman, Walker Farrey, Stan Long, Lori Rautiola

ABSENT: Edwin Somero

The meeting was called to order at the Town Office on November 1, 2018 at 7 p.m. Lori was appointed to fill the vacancy of Edwin Somero.

7:00 p.m. Loren Correia, Lot 4/29-1, 330 Poor Farm Road – Submission of a special exception application:

Robert and Wendy Grippardi own property at 330 Poor Farm Road and granted Loren Correia to speak on their behalf. Ms. Correia stated she made an offer to purchase the property contingent upon the Town granting a special exception to Article VI C.4 of the Zoning Ordinance to allow a wellness center/yoga studio. David requested the applicant have a survey of the property done to show boundary lines and layout of parking, etc. and have it available for the public hearing. A site visit was scheduled for December 1, 2018 at 8:30 a.m. The public hearing was scheduled for December 6, 2018 at 7:00 p.m.

7:00 p.m. USA Properties Inc., Bruce Simpson - Lot 10/7, Stowell Road-Continuation of a public hearing:

The hearing was continued from October 4, 2018. Mr. Simpson stated he made the changes requested by the Board which included shifting the two buildings closest to Holly View Drive away from the property line, add a legend to the map and calculations on the amount of standing water and wetland. Mr. Peter Holden was present to represent Mr. Simpson. Mr. Holden stated there was concern about the project creating more water issues for the abutting properties on Jaqueline Drive. He continued stating they have proposed a graded ditch along that side of the property which would contain all water on site and no water should flow in the direction of the abutting properties. Mr. Holden noted the density calculations are located on the map and are as follows:

- 1) area required for each multi-family unit = 30,000 sq. feet
- 2) minimum lot area = 2 acres
- 3) area of existing lot = 4,160,860 sq. feet
- 4) area of open water = 11,955 sq. feet
- 5) area available for development = 135 units

Walker noted the amount of water on the map seemed a lot more than a ¼ acre according to the scale. David questioned how far the buildings were from the property line and Mr. Simpson stated almost 100 feet. David also questioned if the size of the buildings changed and the amount of parking. Mr. Holden responded the size remains the same at 13,600 square feet and with two parking spaces per unit. Stan recommended the applicant make provisions for additional parking. Mr. Holden stated that would be possible.

Wendy questioned if the answers to the application had been updated and Mr. Simpson stated he did not feel the application needed to be updated. Wendy stated the Board previously questioned if the units would have an age restriction of 55 and older or not, adding the wording on the application was vague and the Board needs the answers to be clear.

The five criteria for granting a variance were reviewed:

- 1) The proposed use would not be contrary to the public interest because it would benefit the public interest by providing housing for the community. The project would be targeted at people 50 years of age and older, which is a growing demographic in New Hampshire. It will offer convenient living in smaller dwelling units without the expense and upkeep of single family homes. In addition, the proposal calls for the majority of the tract, including both wetlands, uplands and a pond to remain undeveloped thus providing the benefit of open space, undisturbed wetlands and wildlife habitat.

There was discussion on Stowell Road. It was noted the distance from Green Farm Road to the proposed driveway was 3,000 feet. Wendy stated she was concerned with the amount of egress and the density of the project, adding this is a huge concern for the public interest. Mr. Simpson stated it would be in the public's best interest according to the Town's Master Plan. David stated for the record, the judge did not rule in favor of the Town and does not consider Stowell Road a dead end. Wendy stated she disagreed with the judge's decision and considers this a public safety issue. Members viewed the tax map and determined the project would double the amount of traffic or more with the proposed project. David stated the road could not handle that as it sets today.

- 2) The use is not contrary to the spirit of the ordinance because the ordinance states "by allowing multi-family and cluster development to be constructed in the rural area, diversity of housing will be provided in a way that will allow the Town to encourage preservation of open space and protection of natural resources and special wildlife habitat." The Ordinance then sets out density limits basing the number of units available to the developer based on the size of the tract.

This proposal seeks to do exactly that by siting the housing units in such a way as to minimize disturbance to most of the site. The majority of the 96 acre tract which is identified as Tier II Open Space on the Open Space Plan contained in the Master Plan, will be left in its natural state.

Under the Ordinance "multi-family dwelling" is permitted by a special exception, and the density controls would allow more than the number of units requested, but as the Ordinance refers to "multi-family dwelling" (singular) it is assumed it contemplates that all of the units allowed would have to be housed in a single building.

Placing all the units proposed in a single building would be unsafe, aesthetically displeasing and difficult to market, resulting in a reduced quality of life for the residents. In addition the plan calls for the separate buildings to be constructed in phases with the option of constructing fewer than the full complement of buildings if market conditions do not support building all of them. Such a plan could not be used if all the units had to be contained in a single building.

David questioned if the applicant had considered dividing the buildings into four unit buildings. He added the large eight unit buildings are "just not New Ipswich". Bruce stated he had not given thought to divide the units but it may be more attractive; however, they would need to check the cost analysis. Wendy stated she does not see any correlation between the spirit of the ordinance around cluster home

developments to protect open space, and having eight unit buildings. Mr. Simpson stated the intent is to preserve the open space and wildlife etc. David commented the applicant did a good job preserving the open space. It was noted the project is not a cluster development.

David questioned if the units would be for sale or rent. Mr. Simpson stated the units would be for sale with a price around \$200,000. There was discussion on the market of houses. Mr. Simpson agreed with David that having ten four unit buildings would be more attractive but it would require Mr. Holden "going back to the drawing board."

- 3) Granting the variance would do substantial justice because having multiple buildings verses having one very large building is substantial justice.
- 4) The proposed use would not diminish property values because the proposal is for a condominium development in an area of single family homes and other condos. It is unlikely it will be visible from the road and could be screened so as to limit visibility from neighboring lots. It will not adversely affect the value of surrounding properties.

The question was raised if the applicant would be willing to screen the properties with trees and Mr. Simpson stated he would be willing to leave a tree buffer along the property line.

- 5) Literal enforcement of the ordinance would result in unnecessary hardship to the owner because...
  - a) As can be seen from the accompanying plan, this lot is configured such that only a small portion of it is accessible from a Class V road. It has a substantial amount of wetland with the majority of the dry usable land located on the far side of the wetlands. The larger upland portion can only be reached via a Class VI road unless a new road were to be constructed through the wetland, damaging the natural habitat.

The variance would allow the applicant to make reasonable use of the property creating an aesthetically pleasing condominium development on the smaller upland accessible portion of the property in several buildings instead of a single building. Unlike the vast majority of land in the rural zones, the tract's location on a dead end road means it cannot be subdivided under the ordinance, thereby foreclosing the option of placing the units on separated lots.

Wendy questioned the amount of acreage where the building and the leach fields would be located and Mr. Holden stated about 20% of the parcel would be developed leaving 80 % of the parcel as is. There was discussion on the placement of the septic systems and how to access them for maintenance without impacting wetland. The applicant stated he had spoken with one of the abutters about gaining access through his land but did not have a written agreement, adding he did not think it would be an issue. David noted the Board would most likely make it a condition if approved.

**AND** No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because...

- b) The provision that apparently requires all of dwelling units allowed pursuant to the density controls to be contained in a single building is not explicitly stated, and accordingly it is difficult to determine if it has a public purpose or was merely an oversight. Possibly one could infer that the provision seeks to prevent too many multi-family buildings to be built in very close proximity to each other. The number of dwelling units sought is considerably fewer than the number allowed by the density controls, and placing the units in separate buildings is not only safer and more aesthetically pleasing, but also achieves a similar result to what the site might look like if the tract was divided into small lots with a single multi-family building on each.

The proposed use is a reasonable one because it merely allows the units to be allocated to multiple buildings in order to make the project safer and more attractive. It does not request more units than are allowed under the Ordinance, but permits a more sensible configuration of those units.

Wendy stated the density control ordinance is to create a “village feel” so the Town can preserve open space. Five buildings and forty units would not have a “village setting” and it is not aesthetically pleasing. Stan added it is “very out of the ordinary” for this town.

Abutters were asked to speak:

Christine Bergeron, 123 Stowell Road, questioned the road not being considered a dead end. David responded the judge ruled it is not a dead end and her reasoning was that a car could drive the road and never have to back up. Ms. Bergeron questioned if there was a way to create another way to travel in/out for residents. Mr. Simpson responded they have tried in the past to continue the road out into Temple but the Town of Temple did not agree.

Peter Barry, 35 Holly View Drive, stated the value of his property would most likely diminish due to the increased traffic. He also mentioned with so many units pulling water out of the ground it could potentially draw water away from the abutting properties. Mr. Barry also had concerns for the amount of light it would create during the night time hours and questioned if the applicant would need to upgrade the road before they started. He also questioned the fire suppression and dry hydrants in the area and who would be in charge of maintaining the hydrants, the contractor or the Town. Wendy noted the units would all need sprinkler systems.

Bobby Robinson, 175 Thayer Road, stated he moved here to escape the traffic and is concerned about the increased traffic on Thayer Road as well as Green Farm. Susan Robinson added she moved here from Burlington, Mass. for the quiet, rural area, adding if a complex unit was built it would deter people from buying in this area. Hank Somero, 185 Boynton Hill Road, asked if the common land would be deemed common land forever and David responded it would remain as common land and there would most likely be a condition on the application if approved.

John Bellevue, 43 Holly View Drive, stated the nature of this proposal has already affected his property value. He continued stating his house is on the market and according to his realtor the nature of the project was one of the interested buyer’s primary concerns. He continued stating as a result he dropped the asking price by \$10,000.

Celia Long, 73 North Road, stated she is not a direct abutter to the property; however, she is disturbed by the complexity of the project, adding she came from Hudson, NH and has witnessed how a town such as New Ipswich will start out by allowing a project like this and "before you know it" our town is not so rural anymore. Ms. Long continued stating people move out here for a little land, some quiet and for the "county feel".

Annette Baptistu, 68 Cedar Ridge Drive, stated she is new to the area, "loves the dirt road and the quietness of the rural area". She continued stating she travels two hours to work every day and loves having a peaceful neighborhood to come home to.

Wendy questioned if the applicant had any evidence on how the project will fall into the rural character of the Town, according to the Master Plan. Mr. Simpson stated there is a condo next door that is not quite as big as this project and has not affected the value of properties in the surrounding area.

David questioned if the applicant had given any thought to changing the units before they close the portion of the public hearing and enter into deliberations. Mr. Simpson stated it would be a good idea to look into splitting the units. Mr. Simpson requested to continue the public hearing. Stan made a motion to continue the public hearing. David seconded the motion and it passed unanimously. The public hearing was continued to December 6, 2018 at 7:30 p.m.

The minutes of the October 4, 2018 were reviewed. David made a motion to approve the minutes as written. Stan seconded the motion and it passed unanimously.

The meeting adjourned at 9:20 p.m.

Respectfully submitted,

Lori Rautiola, Land Use Clerk