

**TOWN OF WOLFEBORO
ZONING BOARD OF ADJUSTMENT
June 26, 2023
DRAFT MEETING MINUTES**

I. Roll Call

Chair Audrey Cline called the meeting to order in the Great Hall, 84 South Main Street, at 7:00 p.m.

Members Present: Audrey Cline (Chair), Suzanne Ryan (Vice-Chair), Luke Freudenberg, Charles Sumner.

No Alternates Present

Staff Present: Tavis Austin, Director of Planning and Development.

II. Public Hearings: None

III. Unfinished Business

- a) **LACONIA AREA COMMUNITY LAND TRUST doing business as LAKES REGION COMMUNITY DEVELOPERS, BECK DRIVE, Tax Map #175-20-1, Case #03-SE-23: Modification of a Special Exception Granted in August 2008 and Modified in 2009, to now Allow 30 Affordable Rental Housing Units in Place of 20 For-Sale Affordable Housing Units.**

Summary Discussion re: Short Board and Re-Notification, paraphrased:

- **Chair A. Cline:** Laconia Community Land Trust. Case No. 03-SE-23. Two items before proceeding:
 - 1) We're missing our two alternates and one of our regular members, Sarah Silk, recused herself at the last hearing; therefore, we have a four-member Board tonight. We ask the Applicant if they would like to be heard with a short Board tonight, or if they would like to wait until we have a full Board at another time?
 - 2) I have a question for Tavis: We agreed to re-Notice this meeting, even though it wasn't required. Did that happen?
- **Planning & Development Director Tavis Austin:** It wasn't re-Noticed, no, because the hearing was continued.
- **Chair A. Cline:** We discussed re-Noticing.
- **T. Austin:** I discussed putting it back in the paper, but that ultimately wasn't done.
- **Chair A. Cline:** Okay, I didn't think so. Does the Applicant want to be heard with a short Board tonight?
- **Megan Carrier Esq. for Applicant:** We're fine proceeding with a Short Board tonight.

Summary Discussion re: Status of Current Application and Case History, paraphrased:

- **Chair A. Cline:** Thanks. While you're up there, looking at your Application, I noticed that one of the sections listed in the Planner's Report was not listed in your Application and that was the [RSA] 175: 72.J, regarding Multifamily Buildings. Can you tell me how that went about?
- **M. Carrier for Applicant:** Yes, the ordinance is set up kind of interestingly, where 175: 72J permits Multifamily Dwellings in the Village Residential District by Special Exception. And then there are several avenues in the ordinance to go, without getting that Special Exemption. So, the one that the Board had used in 2008 and 2009 - when this was originally granted - is Article 4.A and that allows the creation of Affordable Nonprofit Workforce Housing in the Village Residential District and in Commercial in the greater downtown area. So, 175: 72.J we didn't cite initially, because we're reviewing it as the avenue that a Special Exception was obtained through this Section 4.A avenue. But if you go back and look at the Minutes from the original approvals, it's very clear that they're talking about Multifamily Housing for this full parcel.
- **Chair A. Cline:** I did look at the Minutes...in any case, the ordinance seems to have changed, so that the way to get to Multifamily Housing is through the Special Exception in this District, rather than how it happened before, which I think was a Permitted Use in the C-1 District and it [this property] was in the C-1 District before. Your [current] application has the C-1 District as the district this is in, which is incorrect.
- **M. Carrier for Applicant:** Yes, this is in a Village-1, the Village Residential District. I apologize. There was an error on the [current] Application. So, regarding the Minutes from the previous Meetings that are from the 2008 and 2009 Approvals...it's the discussion related to this parcel as a whole. There were three Phases: the first two Phases were Rental Units, and the final Phase was For-Sale Units. But the discussion related to this Special Exemption was to allow the Multifamily Housing covering the entire property.
- **Chair A. Cline:** My understanding is that the Special Exception reached [approved] back then, was to allow for the Workforce Housing; not necessarily in a particular form, like Multifamily or Single-Family. But the Special Exception was for the Affordable Workforce Housing. I did not see any section that allowed a Special Exception for Multifamily, which is why I'm assuming that if it was in the C-1 District, it was probably a Permitted Use, but I don't know that. So, moving forward, whatever that case was, if you believe that it was permitted in Phase III, back then in the Minutes, if you could clearly show that to us, because it wasn't clear to me.
- **M. Carrier for Applicant:** Sure. May I invite Steve Dwyer to [speak]: he knows more about the history of the project, and I wasn't involved in those earlier phases. The one thing I will say is that either way, the Special Exception Criteria are the same. The factors that you were evaluating are the same, whether we're talking about a Special Exception under Section 4.A or a Special Exception for Multifamily Housing.
- **Chair A. Cline:** Yes, I recognize that; however, none of your documents speak to the Multifamily part of that, as far as going through those Criteria. So, that would have to be a separate Application. The Application would need to show that the Special Exception under the Village Residential is something that was considered with this Application, because the [current] Application doesn't say that and the Denial doesn't say that. So, you take a course [of Appeal] depending on the Denial of an Application, and that's just not in the paperwork, at this time.
- **Steve Dwyer for Applicant:** Actually, the original approved plan for Phase III included Duplexes, although it was for ownership, it wasn't the 20 Single-Family Homes which were finally approved by the Planning Board in 2020. But if you go back to the drawings from 2008-2009, Phase III was a majority of Duplexes, not Single-Family Homes. But they [the Duplexes] were to be Ownership versus Phase I and II, which were Rental. So, by that definition, I would argue that "Duplex" implies Multifamily, does it not?

- **Chair A. Cline:** Does not.
- **S. Dwyer for Applicant:** Okay.
- **Chair A. Cline:** So, what I see, are three different issues here: 1) One is the Multifamily versus the Single-Family Duplex, because those are different Uses. 2) The second is the number of Units that you're asking for, the change in the number of Units, and 3) The third one is...
- **Vice-Chair S. Ryan:** One [concern] that I have, I'm having trouble with the Variances and Special Exceptions that worked for two years. And what I noticed was, you came in and that was under Section 674.33. You came in 2008 with a Plan and then you came in 2009 with a Revised Plan, which was within the time frame to make such an Adjustment. This is 24 years [2009 to 2023 is 14 years] later on...I think you need a new Application, that this is a new project that was approved 24 [2009 to 2023 is 14] years ago. You didn't come in within the two-year time frame to say, "I need to make changes."
- **Chair A. Cline to Vice-Chair S. Ryan:** So, it sounds like you're asking, "Here's the Third Phase: is the Approval expired due to the time frame between the original Approval and the Groundbreaking?"
- **Vice-Chair S. Ryan:** I would even [have] given them the benefit of the doubt in 2009, because they were within that two-year, valid expiration date.
- **M. Carrier for Applicant:** So, this was approved as a Phased Development. I don't think it was ever contemplated that Phase III would be completed within two years. The way that the approvals work: they did [build out] Phase I and Phase II and are now moving to Phase III. Phase II was completed in 2014. So, the way that this was approved as a Phased Development, I think that that changes that two-year expiration date.
- **S. Dwyer for Applicant:** I would just add: that work continued on through 2020, when Phase III was fully Approved as an Affordable Housing for Ownership project, as you know, the 20 Units.
- **Chair A. Cline:** I'm sorry, what was approved in 2020?
- **S. Dwyer for Applicant:** Phase III.
- **Chair A. Cline:** The Site Plan for Phase III?
- **Steve Dwyer for Applicant:** Absolutely.
- **Chair A. Cline:** So, there was a Site Plan for Phase III that was approved?
- **S. Dwyer for Applicant:** That was in 2020, so it [this project] did not sit dormant for 14 years.
- **Chair A. Cline:** So, you're saying there's a new Site Plan that was approved in 2020?
- **S. Dwyer for Applicant:** The fully approved Site Plan, in fact, one of the drawings you have in your packet - to give you a visual picture of what we're asking tonight - is an overlay. That's it [the 2020 Site Plan is a black and white line drawing]. So, the 20 units - not the colored portion [2023 Site Plan is colored] - formed part of a fully Approved Site Plan to build those 20 homes.
- **Chair A. Cline:** In 2020.
- **Steve Dwyer for Applicant:** In 2020.
- **Vice-Chair S. Ryan:** And that's Exhibit D? Which Exhibit is it?
- **Steve Dwyer for Applicant:** [Exhibit] D. So, my first thought would be: this did not sit dormant for 14 years. For those who develop affordable housing, one of the key constraints - in addition to the constraints of any significant development - is funding. And there are significantly more sources of funding available...
- **Chair A. Cline:** This is something that we'll go into further. So, let's go back to Exhibit D. There's no date on here, do we have a signed Site Plan approved by the Planning Board in 2020 for this?
- **T. Austin:** I'm sure there's one, of the final, yes.
- **Chair A. Cline:** So, this is based on a new Site Plan? Do we have that information? Because otherwise, when questioning whether there was a time frame issue and we don't...

- **T. Austin:** No one was ever asked for a determination of the time frame issue. It's Staff's position that the [previously approved] Special Exception and related Site Plans were all vested projects.
- **Chair A. Cline:** I appreciate that, but if there's a question, we probably would want...
- **T. Austin:** I don't know of anyone who's raised that question to the Zoning Board [of Adjustment].
- **Chair A. Cline to T. Austin:** We're raising the question. So, what I think you were saying was: your belief, and what I thought, was that there was a Site Plan approved in 2009 for this Third Phase, and nothing else has happened until...
- **T. Austin:** Right.
- **Vice-Chair S. Ryan:** 2020.
- **Chair A. Cline:** Until now [2023].
- **Vice Chair S. Ryan:** 2020, he's saying. We do not have any of that information. So, we assumed, given what we have in our packet [for this Meeting], that that was the last thing that happened. But now you're telling us: in 2020 there was a Site Plan approved by the Planning Board and recorded?
- **Steve Dwyer for Applicant:** I'm looking over here to our engineer. No, I don't think it was recorded because there were Conditions to it [the 2020 Approval]. As we went through the Funding Process and Bidding Process to try to build these Affordable For-Sale Units - to be blunt - it simply became non-viable. It would have cost far more for the Site Improvements and [Building] Construction, than for what we would have been able to sell these Units [at an affordable price].
- **Chair A. Cline:** Okay, I'm just trying to understand the process.
- **Vice-Chair S. Ryan:** So, that was in 2020 and this is 2023, you're still past the two-year window.
- **Chair A. Cline:** The other thing I'm trying to understand is, if you got an approved Site Plan with Conditions in 2020, were the Conditions related to the Zoning Board of Adjustment [ZBA] process that was required [at that time]? Three issues I see now are: 1) The change in Units, 2) The change from Ownership to Rental, and 3) The Multifamily versus the Single-Family Duplex.
- **Steve Dwyer for Applicant:** No. Because the Approvals in 2020 would have complied - did comply - with a Special Exception from 2009, when we were approved to have 48 Rental Units and 20 For-Sale Units. The existing 48 Affordable Rental Units were built out for Phases I and II, and are quite successful.
- **Chair A. Cline:** They were also the Approvals earlier on, were there not? It was a different number back then.
- **Steve Dwyer for Applicant:** Again, there was a shift between 2008 and 2009. It was 34 Rental and 34 For-Sale [in 2008], then it shifted to 48 Rental and 20 For-Sale Affordable Homes [in 2009].
- **Chair A. Cline:** We'll get to that because I have a lot of questions about that. I don't dispute what you're saying - that the funding is very difficult - but I would need to understand more of the background than what we have right now.
- **Vice-Chair S. Ryan:** Could I suggest that we go forward with the presentation and that we get legal opinion on this time frame? Maybe that has expired? And let's open for the Public Hearing with Public Comments about the project [after the presentation], and then Continue the Hearing? Because I also have a lot of other questions. And I think there are a lot of questions we [the Zoning Board of Adjustment] are going to have to get to the attorney, in writing, and get answers back, in writing.
- **Chair A. Cline:** I do think that the Public should be here.
- **Vice-Chair S. Ryan:** Absolutely. This is the second time they've showed up, it'll be nice for them to speak.

Summary Discussion re: Presentation of Modified Proposal [paraphrased below]:

Steve Dwyer, Project Manager for Harriman Hill Phase III:

- There are no changes to the approved footprint [building area] of the 2020 Site Plan, other than the Fire Chief now requesting a Second Emergency Vehicle Egress from the site.
- There were 60 Bedrooms proposed in 2020, there are 60 Bedrooms proposed now.
- From 2020 until now, construction costs have gone up significantly. We put two years into the design [of the 20 For-Sale Affordable Housing Units]; we bid the project in 2020, but it was too expensive.
- Phases I and II of Harriman Hill have been built out [as 48 existing Affordable Rental Units] and are very successful. We currently have a Waiting List of 30 Households for Phase III. In response to this situation, we now need to build 30 Affordable Rental Units instead of 20 For-Sale Units.

Megan Carrier, Project Attorney for Harriman Hill Phase III, read the project information into the record as it relates to the Special Exception Criteria [paraphrased below]:

- Lakes Region Community Developers is responding to changes in market demand and construction costs.
- Access to Phase III is on private roads, no significant transportation impacts, more parking spaces will be provided than what is required, no change to water and sewer services.
- Phase III will not increase stormwater runoff, the same number of residents are proposed, the street layout is the same, no change to school impacts, no lighting impacts, no additional traffic.
- No negative impacts to neighboring property values since completion of Phase II in 2014; for example, neighboring houses that sold for about \$300k in 2019 now sell for about \$600k [in 2023].
- The most rent-burdened portion of the population is age 35 and under, and age 65 and over.

Ken Leonard, Project Engineer for Harriman Hill Phase III:

- Water use was calculated at 50 gallons per day for a One-Bedroom apartment, the number of Bedrooms hasn't changed.
- We are racing toward the Planning Board hearing date on July 11th, to modify our previous 2020 approval of Single-Family For-Sale homes.

Chair A. Cline: Can we get the DPW [Dept of Public Works] letter regarding the water and sewer services?

Engineer K. Leonard: Yes.

Chair A. Cline: Did you go through to engineered drawings in 2020?

Engineer K. Leonard: Yes.

Chair A. Cline: I'd like to seek legal counsel for this Approval.

Sal Stevens, Project Financing for Harriman Hill Phase III, responses to Board's queries:

- Low-Income and Very Low-Income Housing is calculated as a percentage of Median Income in this area.
- The more mix of ages for the residents of Affordable Housing, the better.
- The single-family houses previously proposed for Phase III costed out to about \$420k each.
- Our market analyst recommended against building duplexes.
- To finance the development and construction of our Affordable Housing, we use a combination of Low-Income Tax Credits and various grant funds for which we apply, including CDBG [federal Community Development Block Grants].
- We typically use a 12-month, renewable lease.

L. Freudenberg: Let's remember what is within this Board's purview and focus on the Approval Criteria for the Special Exception.

Summary of Public Comments [paraphrased below]:

Board Member, Eastern Lakes Region Housing Coalition:

- Our mission is to provide safe, secure, and affordable housing.
- The current vacancy rate for rental housing in NH is 0.05%.
- 70% of current Harriman Hill residents work in Wolfeboro, employed by: the hospital, the school district, manufacturing, food service and hospitality.
- Currently, there are 30 children housed at Harriman Hill.

Chief Financial Officer, Brewster Academy:

- We are the third-largest employer in Wolfeboro and we fully support this proposal, Phase III of the Harriman Hill Affordable Housing development.
- Seventy employees of the Brewster Academy are housed on-campus; however, our eighty other employees need housing off-campus. There are very few rentals in Wolfeboro, many more are needed.

Carrie Durand and Family, Harriman Hill Residents and Board Member of LRCD:

- I offer a resident's perspective, my three children and I have lived at Harriman Hill for nine years, in a 3-Bedroom apartment built in Phase II.
- With all that Harriman Hill offers its residents for safe and secure and affordable housing, the property is especially well-managed, to the benefit of everyone and especially elderly residents and for my child who has balance issues.
- I'm also a Board Member of Lakes Region Community Developers; I approve of the new direction for Phase III of Harriman Hill.

Margot, Wolfeboro Resident and Real Estate Professional:

- Housing in Wolfeboro is very scarce.
- I've sold 126 homes in this area, most financed by conventional mortgages.
- Median incomes for Wolfeboro: \$67k for two-person household, \$44k for one-person household.
- There are three listed rentals, as of today: two in Wolfeboro, one in Ossipee.

Vice-Chair S. Ryan: Could the Board get a copy of your statistics?

Mary DeVries, Wolfeboro Chamber of Commerce:

- We hear constantly about the lack of rental housing in Wolfeboro.
- It takes years to be on Harriman Hill's Wait List.
- We support this proposal for additional rental housing.

Board Member, Eastern Lakes Region Housing Coalition:

Read her letter in favor of the proposal into the record.

No public comments opposed to the proposal.

Chair A. Cline to Applicants: Please correct the Zoning District. Please provide the letter from the Town Dept of Public Works [DPW]. Procedurally, ZBA needs a letter from the Building Inspector re: the Denial of the Building Permit. Where does the Site Plan stand? Per the Vice-Chair, please address the Criteria for RSA 175.22 and 175.27.

Steve Dwyer for Applicant: Are we obtaining a new Denial from the Code Enforcement Officer?

Planning and Development Director T. Austin: We'll take care of this.

Vice-Chair Suzanne Ryan made a motion to Continue the Hearing for this Case #4-AAD-23 to July 17th, 2023 at 7:00 p.m. Seconded by Charles Sumner. Roll call vote: L. Freudenberg (Yes), S. Ryan (Yes), A. Cline (Yes), C. Sumner (Yes). The motion passed (4-0-0).

IV. New Business

V. Minutes of Previous Meetings: 6/5/2023, 6/26/2023

VI. Communications and Miscellaneous

Next month, the Zoning Board of Adjustment will meet on Monday, July 17th (instead of Monday, July 3rd).

VII. Motion to Adjourn

At 9:40 p.m. Vice-Chair Suzanne Ryan made a motion to adjourn. Seconded by Luke Freudenberg. The motion passed unanimously.

Meeting Minutes respectfully submitted,
Livia M. Nicolescu