

**Town of Chester
Zoning Board of Adjustment
December 18, 2018
Town Hall
7:00 pm
Approved Minutes**

Members Present:

Adam Maciaszczyk
Vice-Chair Kevin Scott
Courtney Cashman
Matt Gelinis, Alternate
Jean Methot, Alternate

Members Absent:

Jack Cannon
Chair Billie Maloney
Richard Snyder, Alternate
Joseph Hagan, Selectman Liaison

Guests:

Anthony R. Massahos
Eric C. Mitchell
Attorney Peter M. Solomon
Penny Williams, Tri-Town Times
Barbara Suech
William Gregsak & Janet Gregsak
Amber Ragnarsson
Eric Brander
Nicholas Martino
Lt. Scott Newnan, CFD

And other persons unknown to the minute taker

Agenda

- 1. Call to Order/Roll Call**
- 2. Correspondence**
Letter/Andrew Hadik for Map/Lot 2-70-1
- 3. Approval of Minutes – October 16, 2018**
- 4. Survey Checklist, Budget Workshop**
Training Workshops – Tabled, Ordinance Inserts – Tabled, Rules of Procedure - Tabled
- 5. Hearings:**

**Eric C. Mitchell & Assoc. on behalf of 21st Century Development, Inc. for two variances: Article 5, Section 5.3, Subsection 5.3.4 (permitted use in the R1 zone) to construct and operate a 16-bed assisted living facility; and Article 4, Section 4.4, Subsection 4.4.2.1 (signage in the R1 zone) for a sign less than 30 s.f. where 6 s.f. are allowed in the R1 zone
On the property to be known as Map 2, Lot 70-1, 254 Haverhill Road**

6. Adjournment

1. Call to Order/Roll Call

Vice-Chair Scott called the meeting to order at 7:01 pm. By Roll Call were present: Vice-Chair Kevin Scott, Adam Maciaszczyk, Courtney Cashman, Matt Gelinas and Jean Methot.

Vice-Chair Scott indicated alternates, Matt Gelinas and Jean Methot, would be voting actively tonight.

Vice-Chair Scott advised that the affirmative votes of three Board members were required for the ZBA to act.

Vice-Chair Scott indicated the budget workshop would be moved to the end of the meeting.

2. Hearings

Vice-Chair Scott read the Public Hearing Notice and Denial Letter of the Building Inspector out loud and advised that Mr. Mitchell had submitted new plans with the same date (October 30, 2018). Mr. Mitchell advised there was a revision block on the reverse side indicating a date of December 13, 2018 to move building back.

Vice-Chair Scott instructed those present who may wish to speak that the first application is for use and is not Site Plan Review which will be performed by the Planning Board in the event the applicant is successful this evening and that while the ZBA may consider recommendations to focus on the request of the applicant that is before the Board.

Vice-Chair Scott read the 30-Day Notice pursuant to RSA 677 out loud and invited Mr. Mitchell up to present the application.

Mr. Mitchell provided two handouts and displayed a copy of the first handout on the easel, which was a large plan entitled "ZBA Variance Exhibit Plan "Tranquility Farms Tax Map 2, Lot 70 Haverhill Road" which contained photos marked Chester #1-6 and Derry #1-10. The second, seven-page handout, entitled "Variance Application Addendum, Applicant: 21st Century Development, Property Location: 254 Haverhill Road, Map 2 Lot 70-1, Chester, NH, Tranquility Farm's Argument in Support of Applicant's Request for Variance" was read out loud by Mr. Mitchell and contained a two-page letter of expert real estate opinion dated December 4, 2018 from Berkshire Hathaway/Verani Realty to Solomon Professional Association, signed by Realtor, Joseph A. Scattergood.

Mr. Mitchell presented the Exhibit Plan and identified #1 Derry is a covered porch view, #2 is the house facing South; #3 is the southeast, #4 shows the view from across the street; #5 to the northwest and #6 shows the adjacent home the applicant resides in. Mr. Mitchell identified the distances from the abutting properties and adjacent home as well as from the roadway and

noted the open field area will be landscaped with appropriate buffers as the Planning Board requests. The revised plan set the building back another 30'.

Mr. Mitchell advised that Lot 70-1 has not been to the Planning Board yet. The assigned address will be 254 Haverhill Road, the property is currently 236 Haverhill Road and will go to the Planning Board for subdivision of the 2 plus acre lot proposed. The proposed 16-bed assisted living facility will be State licensed and will have individual rooms with individual baths for 16 people and will be similar to another facility owned and operated by the applicant in Derry, NH, known as Beaver Lake Lodge. The facility will have a common dining and living room and laundry. There will be 24-hour supervision on site and medical. The 11,000 square foot building will be single-story with a basement and never increase in size and be hardly visible. The basement will only house utilities and no residents. Septic and well will be on-site and there will be 12 parking spaces, but no resident parking. The use would benefit the community as this use has not been addressed and will provide affordable assisted living. The residents of the facility would benefit from having their independence and to sit back on the deck, have organized trips and shopping, etc. The current Ordinance does not list these facilities as permitted uses in any area in Town.

The location is near the center of Town and as required by the State, must be within 15 miles to a hospital.

The second application is for signage and if the first application is successful will be heard after.

Mr. Methot stated concerns with the allowable area for impervious surfaces shown on the plan which exceeds 18% coverage, now adding 600 sf of asphalt, deck and pad to the basement. Vice-Chair Scott thanked Mr. Methot for the recommendation and reminded this falls in the purview of the Planning Board. Mr. Methot explained the applicant may require an additional variance.

Mr. Gelinas asked if residents were allowed to have cars. Mr. Massahos stated that he and his wife, Karen operated two other facilities, one in Derry and another in Windham which have 11 parking spaces and 22 employees, \$400,000 in payroll, just gave a .50 cent raise to employees to \$14/hr. There would be someone on staff for the evening from 7 pm to 6:30 pm but they are not skilled. They have been in business for three years. Health and Human Services recently granted them a one-year inspection waiver due to their lack of deficiencies. Mr. Massahos stated they don't need a big sign and promise the facility will only enhance the values of surrounding property.

Mr. Maciaszczyk asked how much staff – 2 employees. Mr. Massahos stated this will be an 804 facility, limited to 16 beds. If they were to add on it would become an 805 with different specifications. None of the residents drive anymore. One person will cook four meals per week with no meal service to the general public.

Mr. Massahos advised the monthly cost per resident is \$3,900/mo. at their Derry facility, \$3,100/mo. at Pine Hill and would offer a 10% discount to Chester residents. The monthly cost per resident at Chester would be \$3,975/mo., or \$3,600/mo. for a Chester resident and is one of the lowest in the state.

Vice-Chair Scott opened the hearing to the public at 7:45 pm. Vice-Chair Scott instructed those who wished to speak to state their names and addresses for the record. Vice-Chair Scott

instructed first we will start with questions from the board, then questions from the audience, then comments from the audience.

Mrs. Gregsak asked about specific services provided to the residents. Would there be 3 meals per day x 16? Laundry? Physical Therapy? Occupational Therapy? Home Health Aids? Handicapped access? Single Occupancy?

Mr. Massahos advised they provide all their meals, breakfast, lunch, dinner and snacks. The proposed facility would be a non-skilled facility with no memory care or lock-down, minor dementia, no Alzheimer's or sundowners. They will be hiring a second administrator and staffing to care for the grounds. Mr. Massahos does his own maintenance. Outside service providers would come in for blood pressure clinics, nail and hair care, case workers. The facility does the resident's laundry. There is no occupational therapy, or physical therapy. Families provide transportation for the residents to their appointments. There are no wheelchairs, all residents must be ambulatory, walkers are ok. There would be in-house hospice allowed and respite, and if the residents are not accepted the facility will help try to place them as a free service. ADA regulations have to have parking etc. and one room that is ADA compliant, and all will be single occupancy.

Barbara Suech stated she lived next to Tony asked about visitation and lockdown at night. If there will be set visitation hours? Mr. Massahos stated it is locked down at night, there are no set visitation hours, most visitors come in the late morning or lunch hours, and zero after 6 pm.

Janet Gregsak asked about button service to summon medical help or an ambulance. Mr. Massahos stated it is a non-CPR facility and the facility would request an ambulance if needed, residents don't request their own ambulances. All rooms and baths have emergency buttons to alert staff.

Jeff Jeans, 286 Haverhill Road stated your wife is the administrator of two and you are adding a third, who will be there at night? Mr. Massahos advised the residents are self-supporting and an employee will be on-site each evening there is overnight staff, who go through a background check. Attorney Solomon reminded this is not a hospital or nursing home.

(unidentified) asked about further subdividing the property, there is no restriction...Vice-Chair Scott reminded usage is all we are talking about now.

(unidentified) 328 Haverhill Road, asked with 34 acres why not carve out 10 acres. Vice-Chair Scott reminded usage is all we are talking about now. That is for the Planning Board. Lighting and drainage concerns were expressed and hydrology studies asked about. Vice-Chair Scott reminded those wishing to speak that the Planning Board will focus on those issues. Mr. Mitchell advised they will be required to have no increased runoff. Mr. Massahos stated the water use is approximately 2700/gal per month and lighting is up to the Town however they would use lower wattage and low poles similar to the Derry facility.

Ms. Ragnarsson asked if the applicant got by here (the ZBA) they could be denied by the Planning Board – yes.

Gary Hamm, 198 Haverhill Road, asked about the cost and discount to residents and whether a portion would be designated for Chester residents or whether they would be given priority – no. Mr. Hamm stated he moved here, not to have to look at this stuff, and asked if it were the proper

place for it. It could open doors. Make other residents question what they could do with their parcels. Is this the proper place for it?

Vice-Chair Scott advised every decision is based on five points of law and does not set a precedent.

Eric Brander, 267 Haverhill Road stated he disagreed with the realtor that this project would raise values. Mr. Brandon stated this is a very important decision that could change zoning in Town and set precedents. Many years ago, they wanted to build a golf course and the Town refused to change zoning. Consider the rights of abutting property owners. Would you like that next to your house? The applicant is not here for Chester or the elderly.

Vice-Chair Scott read the realtor's opinion letter of Mr. Scattergood out loud as well as correspondence received from Andrew Hadik, a resident of 135 Chester Street.

Attorney Solomon reiterated the use is not allowed anywhere in town due to there being no updates or changes to zoning in Town to address these facilities. Mr. Methot advised the commercial district is across the street from the dump and the G&P area is taken over. Vice-Chair Scott advised the ZBA acts on a case by case basis according to the five criteria required by law and does not set precedents, although certainly considers past cases in making determinations but allowing one doesn't open up to allow a multitude. Attorney Solomon added this is a single vote on a single location.

(unidentified) stated this is a commercial business, this is a residential area. Don't want lights on 24/7, it's a big structure with a footprint 5 times larger than the other homes. Mr. Mitchell added this is a residential nature that is not permitted anywhere. If it were in the commercial zone it would still require a variance.

Mr. Martino, 270 Haverhill Road, a direct abutter, stated it's a great project, but don't want in backyard. It's a big commercial structure, changed without our control. Will diminish values. We could all bring in our own experts to say the opposite of what theirs did. It should be in a commercial zone.

(unidentified) stated he is a local physician, this is a double-edged sword to have parents live in a place such as this, but it does set a precedent. As for hardship are there other areas that are more appropriate than R1 without significant change to the rural use of the properties. Speeding is an issue. The Town should change its ordinance but not have these in R1.

Mr. Methot reminded the commercial zone in Town is across the street from the dump. There is not much commercial space in Town and the area by G&P is taken over.

Mr. Massahos stated it is not his intention to exploit the Town or its residents and placing this facility in another zone would not succeed financially, the way we run this and the amount we charge. It is just a large home. The stone walls are being rebuilt. "You will never have a facility like this." "Children will never bring their parents to a small bed facility in a commercial district." "Financially it doesn't work." "You will end up with a large facility and wish that you had more of these small facilities." "This fits with the character of Chester and won't affect values. It will increase values."

Vice-Chair Scott stated values seem to be important and asked how many were concerned with values. The consensus was that many were concerned with values but that was not the only

concern as the residential area. Attorney Solomon stated they presented evidence concerning the values, no one else did. Mr. Maciaszczyk stated it would assist him to know how the values would be affected.

Mr. Mitchell advised he would also like to have the sign application continued to next month.

Vice-Chair Scott moved to continue the hearing until January 15, 2019 at 7 pm to contact the Chester Town Assessor's office to obtain an opinion as to how the proposed assisted living facility would impact the surrounding properties. Mr. Gelinas seconded the motion, with all in favor, so moved.

3. Correspondence

Ms. Hoijer provided the Board with copies of correspondence received from Andrew L. Hadik of Chester Street (above.)

4. Approval of Minutes – October 16, 2018

Vice-Chair Scott asked if the Board members had a chance to review the minutes. All answered affirmatively.

Mr. Maciaszczyk motioned to accept the minutes of October 16, 2018 as written. Mrs. Cashman seconded the motion. Mr. Gelinas and Mr. Methot abstained due to absence from that meeting. With 3 voting in favor, and 2 abstentions, none opposed, so moved.

5. Survey Checklist, FY 2019 Budget Review Workshop

At the October meeting, Ms. Hoijer stated she had submitted her general office changes to the proposed budget for FY 2019 and provided a copy to the Board for review. Ms. Hoijer recommended changes to postage, advertising and office supplies due to the increase in the number of hearings each month. Ms. Hoijer will submit the budget with the proposed changes for FY 2019.

Vice-Chair Scott reviewed the proposed Survey Checklist. Ms. Hoijer noted she had received applications many of which over the past few months had not been to the Planning Board of Building Inspector and had no denial letter and plans were incomplete as applicants did not want to incur the expense if their application to the ZBA were not approved. This frequently results in different plans being brought to the ZBA than are finalized with the Planning Board. Vice-Chair Scott stated the reminder about the denial letter should perhaps be moved to the front of the checklist.

6. Proposed Training Workshops – Tabled

7. Ordinance Inserts – Tabled

8. Update Rules of Procedure - Tabled

9. ADJOURNMENT

Vice-Chair Scott motioned to adjourn the meeting at 8:55 pm. Mr. Methot seconded the motion, with all in favor, so moved.

Respectfully submitted,

Nancy J. Hoijer,
Recording Secretary