

## Meeting Minutes

### Zoning Board of Adjustment August 8, 2007

#### Lincoln Town Hall Main Street, Lincoln, New Hampshire 5:30 PM

Present: Chairman Joe Chenard, Vice Chairman Ron Comeau, Member W.T. Bishop, Selectmen's Representative Patricia McTeague, Member Pat Leary and Alternate Tom Smith

Staff Present: Stacey Boyce, Planning Administrator; Ted Sutton, Town Manager

Others Present: Steve LaFrance, Ed Brisson, Susan Chenard, Steve Akers, Brent Drouin, Russ Cooley, Wes Graves, Lutz Wallem, Paul Kasianchuk, Chester Kahn, Peter Moore, John Hettinger, Charlie Cook, Liz Lambregtse, Chris Mulleavey and other unidentified members of the audience.

#### **5:47 PM CALL TO ORDER by the Chairman**

Chairman Chenard called the meeting to order. Alternate Noel was excused. Full quorum present.

#### **5:49 PM CONSIDERATION of the Draft Minutes of the March 14, 2007 meeting.**

Selectmen's Representative McTeague made a **motion** to approve the minutes of March 14<sup>th</sup> as presented; seconded by Member Bishop: Affirmative vote. Vice Chairman Comeau and Alternate Smith abstained, as they were not present for the meeting.

#### **5:50 PM Case 07-02: Lincoln South Mountain Partners, Tax Map 16, Lot 310**

The Applicant is seeking a variance from the setback requirements of the Lincoln Land Use Plan Ordinance, Article VI, Section B-3, a & b, to construct condominiums to be built within the required 15 foot setback and/or encroaching the high-water mark of a stream.

Chairman Chenard noted there was an issue with the abutter notifications, as the Nordic Inn had not been noticed on this hearing. Selectmen's Representative McTeague said she was a representative of the Board of Directors and would waive the right for notification on their behalf.

Selectmen's Representative McTeague and Member Leary were recused, as they were abutters to this project and Alternate Smith was seated.

Mr. LaFrance said he was before the Board tonight on behalf of his clients, Lincoln South Mountain Partners (LSMP), and they were seeking relief from the Land Use Plan Ordinance regarding the setback requirements stated in Article VI, Sections B-3, a & b. Mr. LaFrance then reviewed the plans for the Board members and audience. He stated they are trying to put a 78-unit development on a parcel of land and have been working with the Planning Board for the past few months to find a plan that would work for this project. Mr. LaFrance stated the ordinance says the high-water mark of a stream is to be used for the setbacks and it has not been determined what type of a stream this body of water actually is, however it is believed to be an intermittent stream. He said LSMP's is not sure of the setback areas on all of the properties but they range from 0-10 feet depending on the building for the 9 buildings that would require reduced setbacks.

Vice Chairman Comeau asked how many buildings have a zero setback. Mr. LaFrance said there was one building.

Chairman Chenard asked if there were any buildings that would be built over the bank as indicated by at least one of the stakes he viewed on an earlier site walk. Mr. LaFrance said there was one home that had a stake close to the top of bank however it was 35-40 feet from the water. He said any stakes that were over the bank might be ones that were set up for delineation purposes.

Vice Chairman Comeau made a **motion** to open the Public Hearing; seconded by Member Bishop: Unanimous affirmative vote.

Mrs. Leary stated there was an area she knew of that had a culvert or stream of some type that always had water in it and beavers sometimes built dams there. She said because of these things water at times got built up and it ends up draining down near her house and seeping into her basement. She asked if this would be a continuing issue once this development was built and affect any of the new houses being built. Mr. LaFrance said this project was on higher land so it would not impact the new development and after a bit of a discussion it was said that the seepage that Mrs. Leary is experiencing is more likely due to the wetlands in the area causing the ground to get excessively wet and not from any stream.

Alternate Smith said he believes the Board should do a site walk to get a better feel for the property. It just rained a great deal and it should be a good time to see if there would be any trouble spots. There were no objections to this by other Board members or the applicants.

Chairman Chenard made a **motion** to adjourn the meeting until the Board and audience returned from the site visit; seconded by Alternate Smith: Unanimous affirmative vote.

6:37 pm the meeting was called to order once again at which time Chairman Chenard asked if there were any further questions from Board members or the audience. There were none.

Vice Chairman Comeau made a **motion** to close the Public Hearing; seconded by Member Bishop: Unanimous affirmative vote.

Member Bishop made a **motion** to go into voting mode for the variance; seconded by Vice Chairman Comeau: Unanimous affirmative vote.

Chairman Chenard stated he would be abstaining from any voting as he sits on both the ZBA and the Planning Board and does not want there to be any conflicts.

1. **Regarding diminution in value:** The character of the proposed development is similar to existing surrounding developments, will remain a natural woodland screening buffer around the development, and will be developed with quality architectural and landscape standards. 3 votes yes

2. **Regarding benefit to the public interest:** The proposed project provides public access to the East Branch of the Pemigewasset River and will generate a modest tax income increase. It will not interfere with the rights, health, safety, peace or comfort of the general community. 3 votes yes
3. **Regarding unnecessary hardship:** the property is unique in that it is long and narrow with jurisdictional wetlands interspersed and there is no other reasonable feasible alternative to meet the benefit sought other than to construct the development as designed. 3 votes yes
4. **Regarding substantial justice:** Granting the variance will do substantial justice because it would allow the owner to make reasonable use of the property. 3 votes yes
5. **Regarding spirit of the ordinance:** The purpose of the ordinance will not be diminished by giving relief to this property because it is consistent with existing development in the area and will not cause any harm to the public or private landowner. 3 votes yes

Vice Chairman Comeau made a **motion** to close voting mode for the variance; seconded by Member Bishop: Unanimous affirmative vote.

Chairman Chenard noted the voting passed, granting the variance in the affirmative.

**6:47 PM      OTHER BUSINESS**

Chairman Chenard introduced Alternate Smith to the Board members that did not know him and welcomed him to the Board.

**6:47 PM      ADJOURNMENT**

There being no additional business, Vice Chairman Comeau made a **motion** to adjourn the meeting; seconded by Alternate Smith: Unanimous affirmative vote.

DATE: \_\_\_\_\_

APPROVED: \_\_\_\_\_

Joseph Chenard  
Zoning Board Chairman