

Board of Adjustment Minutes 04-07-05

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Present Len Harten, Chairman
 Kathy Maher
 Kathy Bauer
 Bob Levenson
 Rick Westergren

 K. Taylor, alternate
 Shirley Carl, Recording Secretary

Motion for rehearing request for T & R Development/South Bay Partners – Case #s 03-05, 04-05 and 05-05

100-UNIT ASSISTED LIVING FACILITY - IGMO

Motion to approve _____
Seconded by _____
Signed _____
Date _____

Chairman Harten opened the discussion at 8:37 pm. A letter had been received from Joan Dargie and other Prospect St. abutters, requesting a rehearing under date of March 17,

47 2005. The letter was read into the record. The original request was for an assisted living
48 capacity of 100, to include a ten-unit Alzheimer wing.

49
50 Chairman Harten said that the best way to handle this is to take each item as stated in
51 their letter requesting a rehearing. He reminded the Board that the reasons to rehear a
52 case was that new evidence is presented and also if the Board felt they had erred in their
53 decision making process. The items were individually read into the record and each
54 member was asked for their opinion.

55
56 **1. The request/plan should be treated on its own as a new plan, etc. They also**
57 **requested that the Board ask for the opinion of Town Counsel.**

58 Chairman Harten didn't think it was entirely necessary or wasn't aware of anything being
59 received from Town Counsel.

60 B. Levenson felt it started out as being an IGMO challenge which had already been
61 looked at by the Planning Board. Comments from other members – K. Maher stated that
62 eighty-eight units had previously been approved by the Planning Board and she didn't
63 look at it as a new plan. B. Levenson felt that the argument was not the number of units
64 but rather the type. K. Taylor commented that the original plan had three buildings and
65 now they are making it into one building and that would be a whole new plan. B.
66 Levenson stated that it came before us as an IGMO issue. If we decide it doesn't come
67 under the IGMO, the 100-units don't matter because assisted living is allowed and it
68 meets the density requirements and we allow assisted living. He, personally, feels it is a
69 commercial use but it is an allowed use in the senior zone. He had to override his own
70 beliefs because it says that is what can be done. See Section 7.078. L. Harten stated that
71 the Board knew that and discussed it. B. Levenson stated it is an allowed use.

72
73 **2. Building is clearly a commercial for profit, 24-hours per day, 7 days per week**
74 **operation.**

75 K. Bauer stated that both K. Lynch and Bill Drescher said it is a residential use. K.
76 Maher and R. Westergren stated that we knew it and it was discussed. B. Levenson said
77 it was an allowable use.

78
79 **3. Parking spaces, etc.**

80 L. Harten felt that the parking spaces are adequate for this type of facility and it was
81 discussed. K. Maher stated that they have cut down on the amount of paved areas. B.
82 Levenson commented that maybe the Planning Board won't grant a waiver and then it
83 can't be built anyway.

84
85 **4. Line of site of a 42' building was never shown from the Prospect St. angle, etc.**

86 L. Harten felt there was a lot of discussion regarding this issue. Thirty-five feet is
87 allowed and if it is a municipal or education facility, 42' is allowed. B. Levenson said
88 there was conversation from the Prospect St. angle. K. Bauer also remembers the
89 conversation. K. Maher stated that it was going to be better for the people on Prospect St.
90 because it would be down lower. R. Westergren felt it was a non-issue.

91 **5. This will be one of the largest assisted living buildings in NH, if not the largest,**
92 **etc.**

93 L. Harten didn't think this was an issue the Board was dealing with. K. Maher felt that if
94 they fail financially, it is their problem, but it has nothing to do with the Board. B.
95 Levenson then mentioned that the ordinance says that the density requested is an
96 allowable density. In senior housing the density is 30 bedrooms/acre, this is a 3-acre
97 parcel. It is a huge impact but it is what the ordinance says.
98

99 **6. Finances in operating an assisted living facility, etc.**

100 R. Westergren stated that his mother lives in an assisted living facility in North Carolina
101 and she pays \$1,700/month which is nowhere near \$3,000. L. Harten didn't feel it was an
102 issue for the ZBA.
103

104 **7. Granite Ledges/Odd Fellows Hall - no comments necessary**
105

106 **8. Could this facility at Ledgewood turn into a full-time nursing care facility and**
107 **how would it change the traffic pattern, etc.**

108 L. Harten stated that it can't be turned into a full-time nursing care facility unless it
109 returns to the ZBA and receives approval because it is presently assisted living not a
110 nursing home. For a change of use, they would have to return for additional approvals.
111

112 **9. Traffic patterns, etc.**

113 L. Harten stated that the traffic pattern is an issue for the Planning Board. It wasn't an
114 issue that was discussed at the 1st hearing nor needs to come before this Board. K. Maher
115 stated it wasn't in the purview of the ZBA. K. Bauer stated that when parking and
116 visitors was mentioned, we did discuss how many people would be coming/going and the
117 applicant gave figures for what their experience was regarding number of visits per
118 person. She felt that we did discuss sufficiently, for our purposes, the number of visits.
119 They talked about staff, hours staff would be coming/going. This wasn't a new point that
120 was overlooked and the Board discussed it enough for our purposes. K. Maher felt that
121 they have a formula that they go by. B. Levenson stated that there was no accounting for
122 the elimination whatever number of residential units there were.
123

124 **10. Invitation to visit Prospect St. and number of children having to walk to bus**
125 **stop at Glenn Drive, etc.**

126 L. Harten said that would be an off-site issue that the ZBA wouldn't be involved in; it is a
127 Planning Board issue. B. Levenson thought this was originally going to be an emergency
128 exit and was proposed to be gated.
129

130 **11. Data on emergency fire and medical responded to facilities, etc.**

131 L. Harten felt this was an issue to be responded to by the emergency facilities. K. Taylor
132 stated he had spoken with Fire Chief Pauley and he said that the road wasn't wide enough
133 to get a fire truck to the back. K. Maher felt it was a Planning Board issue.
134

135 **12. Concern with Alzheimer patients wandering into the woods, etc.**

136 K. Maher stated that no matter where an Alzheimer unit is located, the staff will have to
137 do the best they can to watch everyone, it is a dangerous situation. L. Harten informed
138 the Board that the Alzheimer units that he has been in have doors that are alarmed and the

139 patients have bracelets, etc. R. Westergren brought up the fact that an Alzheimer patient
140 in a facility had escaped into the courtyard in a nearby town. L. Harten stated it wasn't an
141 issue for the ZBA.

142

143 **13. The entire project should be given more thought, etc.**

144 K. Bauer felt this is a Planning Board issue. K. Maher felt that the writers of the letter
145 don't know the difference between the Planning Board and ZBA. B. Levenson stated that
146 he is in agreement with the principle that is stated but the ordinance doesn't say we could
147 do anything other than what we did. K. Maher felt that wasn't a good area for them to
148 develop this type of facility.

149

150 **14. The abutters felt that T&R was using the previously submitted plan as a threat,**
151 **etc.**

152 L. Harten didn't believe he was threatened by the previous plan nor did he make his
153 decision based on the previous plan. K. Maher didn't feel threatened; we base everything
154 on the plan that is before the board, not something that was submitted before. R.
155 Westergren preferred the new plan.

156

157 L. Harten then stated the signatures that were on the petition for rehearing. Donald &
158 Michal Everett; Sherry Slade; Joan and Paul Dargie and Donald Fallon.

159

160 **A motion was made by B. Levenson, seconded by K. Maher to deny the request for a**
161 **motion for a rehearing, unanimously voted.**

162

163 At this time, K. Bauer commented that the minutes for the original meeting went on for
164 over one hour and she feels the Board thoroughly discussed this case and we were bound
165 by everything that was mentioned. Looking over the rehearing request, we made no
166 technical error and there was no new evidence presented. If we grant a rehearing we are
167 creating a new aggrieved party and we have to have really strong, compelling reasons to
168 switch around and create the new aggrieved party and she doesn't see anything that even
169 comes close to that. All Board members agreed with Ms. Bauer.

170

171 The discussion was closed at 9:30 pm

172

173 .

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