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LITCHFIELD PLANNING BOARD
November 18, 2008
Minutes approved 1/6/09

Members present:

- Steve Perry, Chairman
- Jayson Brennen, Vice Chairman
- Leon Barry
- Marc Ducharme
- Frank A. Byron, Selectmen’s Representative
- Edward Almeida, Alternate
- Carlos Fuertes, Alternate

Members not present:

- Alison Douglas, Clerk
- Mary Anne Geist

Also present:

- Joan McKibben, Administrative Assistant
- Steve Wagner, Nashua Regional Planning Commission, Circuit Rider

Agenda:

1. Zoning Changes - Workforce Housing

Any Other Business

Chairman Perry called the meeting to order at 7:50 p.m. Chairman Perry appointed Alternates Edward Almeida and Carlos Fuertes as voting members this evening. Also present Andrew Prolman and Kevin Lynch.

ZONING CHANGES

The Board discussed how to proceed in meeting the requirements of workforce housing. Mr. Perry said that some people in town feel the Board should not do anything. Mr. Wagner: There are some simple things you can do to provide an opportunity and deal with it later. We said we were going to look at multi-family housing, set up a district, that would protect us, probably do some simple zoning changes. Like say you have one acre lots now, say go ¾ of an acre and reduce the frontage and allow back lots.

Mr. Perry: I do not think that solves the problem though...because we would be rushing into it as it is. My thought is if we did an overlay area to allow five family dwellings

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which is the minimum requirement they asked for. If we did that, I think it shows that we are trying to comply. I think getting into single family, reducing lot size, we would be rushing into it.

Mr. Wagner: But by not permitting workforce housing other than multi-family, it is a gamble and by not permitting it in your permitted uses could force it in Superior Court.

Mr. Perry: What was that other idea you had?

Mr. Wagner: To Make some change that provides a reasonable opportunity for workforce housing and the typical way they recommend to do that is to concede density and frontage, lot size. So, if you said workforce housing, single family homes, multi-family up to three bedrooms are permitted town wide and if it is affordable housing that meets the standards and they get a density bonus. If we can't come to terms on something, then fine, I agree five family and wait. Sometimes you can ask for a special meeting to delay it.

Mr. Perry: I understand that these communities are not the most sought after areas for some people in town. What happens if you use 55 and older model and put that for workforce? The question is - is it enough?

Mr. Wagner: It has to be in 50.1% of the town.

Mr. Perry: If you do not restrict the size so much, would that help?

Mr. Wagner: Restrict the size of the unit? Mr. Perry: Right because we have 55 and older going for \$229,000, that is \$30,000 below workforce housing. They are two bedrooms. Is maybe that the model we want to use. Okay, it is not exactly what we want but it is easier to start with that and make the changes.

Talk ensued. Mr. Perry: They are saying it has to be over 50% of the Town. Mr. Lynch: That is what they are saying. I do not think it will be tested. This is the first time it comes into effect and you have 216 communities in the State, do you think we are going to be the only ones that is going to be up and running - no. Mr. Wagner: There will probably be some revisions but we can't guarantee that will happen. Mr. Lynch: I do not think there is a rush. I think you guys are doing the right thing; you are talking about it, which way to go, look at how the zoning is to allow multi-family here, but to allow 51% of it at present time, this could go back to the legislature and it could all change.

Mr. Perry: My initial theory was to come up with a zone for five plus family homes because we are not restricted by a percentage of the Town that we would have to offer it but we just have to offer it. Mr. Lynch: So, you are saying five unit buildings in a certain portion of Town, not 51% of the Town.

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A map of Litchfield was reviewed. Mr. Perry: You have to realize, when you are doing single family workforce housing, it has to be allowed in more than 50% of the residential area in Town. It does not specify whether it is built or not already but to overlay areas in Town already built would be a little foolish because that opens you up to be challenged.

At this time, Attorney Brad Westgate and Kevin Slattery, a developer, entered the meeting. Mr. Perry explained to the gentlemen that the Board is trying to balance cost. “This workforce housing bill we have to work with is so high up in the air we do not know what to do. We are trying to figure out what is reasonable from a cost standpoint and we were hoping maybe you guys could offer us a little feedback. One of the things we are talking about is a five family building. That is one of the requirements and we are trying to delineate what it takes to be affordable for a developer to build it, make money on it and still be able to rent these units for under \$1,100 a month. In your opinion, what do you find as feasible, for lot size; they have to be two bedroom apartments and septic”.

Mr. Slattery: The first thing that strikes me is why you were going to five families. Obviously, multi-units meet some of the needs but why not higher density - why not consider a higher density for a single family.

Mr. Perry: Time constraint. We have to have this move forward by December for Town Meeting.

Mr. Wagner: The thought was if we were not able to come up with a complete ordinance for Town Meeting that if we did nothing and someone came in to do multi family under Builders Remedy, that would take control away from the town.

Att. Westgate: You are, in effect, trying to create a stop gap way to handle the five unit so you are not cut short without an ordinance that regulates that particular product but of course the statute sort of mandates the ability to promote workforce housing and I think it says including multi-family and they identify multi as five and up but five and up is not the sole product line obviously and the legislature has put the towns in a bit of a box time-wise because logically the progression would be you try to analyze whether you comply with the statute’s philosophy or not...because maybe you do or maybe you don’t but you need data to figure out whether you comply and you need to analyze the effect of your ordinances to figure out whether you comply and you do not have time to do that between three to four weeks from now obviously. A few thoughts I had...I know N.H. Housing Finance, I guess Ben Frost has spoken to you guys...has he given you the model ordinance they have created and has anyone tried to toss that thing around? N.H. Housing Finance created sort of a model, about 18 months ago but it has not been circulated until fairly recently. Their draft of the ordinance preceded the statute but I think what they drafted anticipated the stuff in the statute. Some municipalities are running to that ordinance because of the time constraint issues. It is so hard to create something from scratch like you are trying to do. I think it is impossible to do with the time constraints that you have. To me a couple of basic concepts are, obviously density,

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2 being able to build more units in less land mass is critical to anything working because it
3 is the only way the infrastructure cost can be reduced. Secondly, you are kind of guided
4 by that need and that is tough when you do not have water and sewage everywhere. If
5 you have municipal water, it does make it at least feasible. The other basic concept is
6 how do you attack the land use ordinances generally and by that I mean should the land
7 use ordinances govern in great detail or should they be set up as simple a document that's
8 set forth principles. In every town around here for the last thirty years they have gone
9 from short documents that were more principled and broad base to very detail documents
10 that regulate incredibly small level. What has happened is it created more a kind of
11 central planning approach to land development rather than market base approaches. So,
12 what happens if you regulate something in great detail, the developing world will look at
13 the ordinance and figure out what is the path of least resistance to create the product that
14 can sell as opposed to creating things with broader principles and letting the market fit
15 within those principles for a variety of products...I have always thought that the land use
16 regulations should try to govern things that are important on a health and safety basis and
17 not worry too much about what happens inside the structure as long as what happens
18 inside does not affect the outside world to a nuisance level and also sort of worry about
19 how the outside appearance of things fit together but not worry about how old people are
20 who live in a structure or whether you have an office use for an R&D company for a
21 commercial building or a fitness center. Who really cares? What does it really matter
22 what goes on in a structure...I am wanting to push zoning in that direction in the
23 direction of principles and basic guidelines as opposed to massive detail regulations. I am
24 afraid that the affordable housing regulations is just going to be another overlay of a very
25 detailed little structure that does not change the zoning in a broad base way that sort of
26 freeze the land use to get more market driven.

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28 Mr. Perry: Mr. Slattery, if we reduce lot size to 22,000 sq. ft. to have self sufficient
29 septic, have town water, say you reduce the frontage down to 100 foot, do you think it is
30 feasible to build a development like that, cost effective for workforce housing?

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32 Mr. Slattery: It all ties down to what it is going to cost you for that parcel of land. Land
33 values are established on how many units you get on that parcel and as we all know some
34 communities a quarter of an acre is worth as much, if not more, than 2 acres in another
35 community. Why is that, except that you can put more units on it and it drives that value
36 up? I think Brad brings up a good point is one of the things we discussed quite often is
37 the only way you can try to move in the direction of getting affordable housing measures
38 in place is you have to allow more density but this is going to contradict what Brad was
39 saying but unless you have some sort of inclusionary zoning, then you run the likelihood
40 of a new set of values being established on that very land that you just allowed some
41 density bonuses. Along with density bonuses for a particular use, there has to be some
42 degree of imposition on the use of that property to the extent the town is assured the
43 property is going to remain affordable, or elderly, or whatever and that is what Brad was
44 saying a little bit and most of what he is saying is reasonable and makes a lot of sense but
45 you certainly cannot change the zoning to allow two or three units an acre because most

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people will be flocking to that and that will drive up the demand and what was \$100,000 for a single family lot now you can put two on it. So, the first people start by getting an area of land for a single unit of \$50,000 but once people become acclimated and accustomed and a new value system is set, well that original one acre that was \$100,000 is now \$200,000 because half of it becomes 100 unless you impose some restrictive use upon that so that you hold those numbers down. It is impossible especially today where as we speak there is little to no market yet concrete is going up \$25 a cubic yard in January from \$85 to \$110. That is the highest increase I have seen in 25 years. Steel related products, oil related products...it is becoming very tough with the inflation in the products to keep the numbers where they have to be besides consideration of getting more density. So, it all has to do with the land use, the building, I think building architectural styles and the designs and efficiencies of square footage I think that can be developed in a manner that makes things more efficient and more value priced but unless you can get land costs down, it is an impossible undertaking to try to build a house, a brand new single family home for \$240,000 to meet some of the criteria set forth under the affordable housing or workforce housing standards. You cannot do and start with a lot that is \$100,000, septic installations well installations, impact fees, and you haven't even started to build a hole yet. It won't work. So, I think the density is something people have to come to grips with if they are going to get there. I think if you can get to where there is a political will to have some measure of affordable housing and allow density because that is the fundamental element of getting there, then you have to look at what sort of measures you have to put in place as a municipality to assure that the types of homes that you allowed will remain that way for a period of time...

Att. Westgate: Kind of an off shoot of what Kevin was saying, if one town out of all nearby towns decided to let much of its land have double the density for residential use then it does today, then if the prices start off lower, sort of out of the gate, there may be a flock to that town because the developer again follows the path of least resistance. However, if all the towns at the same time change the density requirements, then there would be much greater supply of the land mass and to match the demand and therefore there would not be a windfall on the landowners whose density is risen up and a burden on the town that is accepting all that density. So, it is kind of who is going to be the first. Will any town dare to be the first one that allows its density to increase dramatically as its approach to workforce housing dilemma or will you try to jerry rig a very detail overlay ordinance that hits certain sections of the town and imposing an affordability covenant that does not let the unit be sold for more than the mortgage equivalent of 30% of the family income and as the property goes up in value, it cannot be resold more than a certain appreciation without a kick back to the municipality for example. That is essentially the model ordinance that has been tossed around...are basically overlay ordinances that allow greater density on certain properties that meet certain land mass criteria but impose the affordability covenant on top so that it is not a windfall for the resale. I think it is a stopgap but it is not a long-term solution for the whole housing dilemma that we have.

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Mr. Barry asked if there is town water at the site, would that help. Mr. Slattery: If you have town water it loosens up the requirements on the amount of area you have to contribute to septic. Mr. Slattery went on to talk about a development he is undertaking in Massachusetts and how with increase density he was able to get the land cost down.

Talk continued. Mr. Lynch: Brad, you brought up the zoning you are saying that the zoning should be like not the regulatory...but an overview of what is permitted in this area and you get into the site plan conditions in site plan regulations where they can be waivable based on certain conditions.

Att. Westgate: My notion you have zones that allow certain uses but their focus is how their uses affect outside of the structure not what is inside the structure...and let the plan at the site plan level analyze in much greater detail how you develop that site and not have it regulated at the zoning, or the site plan regulations, that detail so much about a parking grid that has 40 different uses on it and minor differentials between the number of spaces for those uses, it just does not make sense any more.

Mr. Lynch: You are looking for a lot of flexibility.

Mr. Perry: If we start increasing density and we have to overlay 51% of the residential to allow this, if we increase the density how in any possible way can we keep the lot cost down because we would be given people more valuable land?

Att. Westgate: By the affordability covenant that might come with the model ordinance.

Mr. Perry: But how do you prevent somebody from what they can sell their land for?

Att. Westgate: That is what literally these covenants do. They won't say what the farmer can sell the land to the developer for but because the developer will have to have a certain amount of affordable units in the project and those units will not be able to sell for more than what a regular family can afford at 30% of its median gross income. So, that is saying in the order of \$230,000, \$240,000 today then the developer's profit is limited because he has a certain costs that he can build for, he can only sell the house for that much more over that cost and there is only a certain amount left for the land acquisition side of it and that crunches down the land price that the developer can pay the landowner. Then when the houses are resold, there is a formula on how you deal with the appreciation of the house and whether the homeowner on resale gets all the appreciation or not. Can he only resell to people qualified for 30% of median income and all of that? That is how it works. You do not tell the landowner what he can sell the land for but the ordinance imposes a cost structure that is unavoidable or he sells it back to the regular two acre or one acre zoning approach and makes a few bucks.

Talk went on about individual septic. Mr. Slattery said his development in Pepperell has individual septic on 8,000 sq foot lots but it has great soils. Litchfield also has great

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soils. It was said that in New Hampshire the State regulations say 22,000 sq. foot. Mr. Perry: So, if the State was more responsible to put forth workforce housing, they should have reduced that a little bit.

Mr. Lynch said they do have leachfields where you can get a reduction from the State for size and areas...

Mr. Ducharme: But those are going to shrink the field size not the house lot requirement size.

Mr. Lynch: But you may be able to get a waiver.

Mr. Perry said to have the builder get the waiver that it would work better.

Mr. Slattery: I think you have the ability to move to some degree. If you can double your density that you have now and if you can by way of some design criteria achieve a little more density, common septic...so, maybe you get three units on that one acre...builders have a way of testing a market for a certain product where they can get the cost down and people if you can give them a well designed home in a good location, in a good community at the right number, there are buyers.

Mr. Perry: Perfect example is Canberra Village. Is there any way you could build something like that under the 55 and older restrictions in an open market as workforce housing by giving their own lot?

Mr. Slattery: I would have loved to have done Canberra even in condominium form ownership and been open market. I would have loved to. I would love to do it today. You could, those are two bedrooms, put a loft that could also work as a third bedroom with a half bath upstairs without changing the elevation of that house and you would have Canberra, you would have that density, nice pockets of open space. I would be all over that as long as I could purchase the land at the right number.

Mr. Wagner: With open space it would not be cost prohibitive; if you took older persons, drop the age restriction, look at the density and make sure there is an added density bonus.

Mr. Perry: My biggest thing is if it could be its own lot and I am fine with duplexes mixed in.

Talk continued as to lot size needed to sustain workforce housing. Attorney Prolman said that just doing workforce housing, you will need more units to make a profit. If you have a stand-alone project, you will need at least five (5) acres to start.

Mr. Perry: Brad, if you were going to do something of that sort and you were going to do

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community septic, how would you draw up documents? Att. Westgate: The community septic is straightforward. You have an association, not a condo, fully-owned individual lots but you would have an association which all homeowners would be members and they would maintain the septic, they might have individual obligations, own tanks and piping but you would mandate some sort of maintenance program, mandate the establishment of reserve into a capital fund that would be collected every year that is part of the assessments to replace it over time.

Mr. Perry: Let's say every unit had its own tank but conjoining leachfields.

Mr. Slattery: I would prefer to do it that way...usually an abuse would take place from the outlet of the tank back so you will not be penalizing the overall performance of that system because one person abused it, you would catch that...going back to the idea of a community septic and maybe get with an architectural design, done properly and maybe you get those three units per acre. If I had four acres and suddenly I have 12 units, I am not sure what is so bad about a 12 unit cluster where maybe a private drive that is not necessarily meeting the town's road specifications because maybe it does not have to, it is just a small site plan and provides 12 units. Why would I want to limit it to five acres? I think there are opportunities out there for 10 unit pockets that would work out perfectly. In fact, there may be some little areas on the outside perimeter of the Town that people would prefer to have cluster. I would not want to see those opportunities not available because there is a minimum. I can see where there is a minimum requirement but I am not so sure it needs to be; maybe it needs to be nothing less than three units.

Att. Westgate: You can have a private road system and still have individual lots. You just have to say that the frontage is not on a town road but you have to change the zoning. On the septic, every one owns their tank but the association has the ability to periodically pump and service if they want to do it as a group effort.

Mr. Perry: Can you put these on a private road and make them plow, etc. because now there are condo fees and it would have to fit in with the affordable factor?

Att. Westgate: That is true.

Mr. Perry: Would it be worthwhile to do a public road at that point?

Att. Westgate: Certainly when you are on a public road, you get the town services.

Mr. Wagner: You could do a loop.

Mr. Perry: I think a condo fee is manageable, if you are talking \$50 a month because you have to manage a septic.

Att. Westgate: I am not so sure the problem falls on you folks.

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Mr. Perry: It would have to fit the criteria. Mr. Slattery: It would have to be factored into the analysis that is undertaken by the developer and if you have an environment where a private road if you want to offer flexibility such as Canberra for example it would be hard for us to do that with a public road because I do not know if you can meet all of the criteria, public roadway standards in terms of design and grade. I think we have the ability to do small serpentine loops which create a little more interest. I am happy to hear that you like the way that those feel but those would never meet town roadway standards.

Att. Prolman suggested the Board get a hold of the model ordinance from the State and combine with older persons ordinance and come up with something for the voters.

Chairman Perry thanked the gentlemen for meeting with the Board this evening.

Attorney Andrew Prolman

Attorney Prolman asked about open space zoning and if the Board is going to put off doing something this year. He provided a sample ordinance for discussion.

Mr. Perry: It was at the top of the ladder until we realized how backed against the wall we were here.

Att. Prolman: I trust the same could be said about the rezoning of that lot off Page Road.

Mr. Perry: I think it looks like a great overlay lot. Att. Prolman: Could do workforce housing.

Mr. Wagner: The thing is the workforce housing the density bonus could vary depending on what the use is. It could work as an open space model.

Mr. Perry: That lot is a lot like Mr. Slattery's lot when he did Canberra because one side was wet and the other side was dry and he was able to group the open space into the wet.

Att. Prolman: With respect to the Growth Management ordinance, I take it the Board is not going to do anything this year but you should know the Hudson planning board suspended their growth ordinance for three years and their ordinance was based on Litchfield's ordinance. They did it at the planning board level and not Town Meeting.

Mr. Byron: You may just want to take and put an amendment to the Growth Management Ordinance which gives you option as a planning board to suspend it or institute. That should be a simple change to be honest with you...just leave it in place but make that quick change.

Mr. Perry: You are saying 2010. Mr. Byron: No, you do it this year and that way if you want to take that action, take that action after the vote if it is approved and then you are

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2 all set and then if something happens, you feel that it is needed the planning board had
3 the option of taking that vote to re-enact or reinstall the ordinance.

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5 Att. Prolman: That should be an easy ordinance to draft to put forward, one paragraph.

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7 Attorney Prolman said regarding the workforce housing ordinance that “you really do not
8 have anything to worry about you know that because it is a rare developer who is going
9 to try to push through a workforce housing project and have to take it to court...in this
10 market, it probably will not happen”.

11
12 Talk continued as to workforce housing and Builders Remedy. Mr. Byron: Here is an
13 option: Designate a couple of areas, you know it is not going to be 51%, commission
14 Steve to write a plan as to what the town is going to do in the future to address this. State
15 in the plan quite clearly that you are under the gun here in terms of short time line and
16 have that on the books approved with something small, the best we can come up with
17 going to the voters to enact it. It shows good faith; it shows a plan going forward in the
18 future.

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20 The Board continued to try to establish certain areas in town to designate as workforce
21 housing. Workforce housing will be discussed at the next meeting December 1, 2008 at
22 which time a review of a model ordinance from the State.

23
24 **Bonds**

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26 Mr. Perry **MOTIONED** to call the bond, a letter of credit in the amount of \$50,000 from
27 Butler Bank subdivision of Heritage Park (Active Adult Community). Mr. Barry
28 seconded. Motion carried 7-0-0.

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30 Mr. Perry **MOTIONED** to call the surety bond by Harleysville Mutual Insurance
31 Company in the amount of \$49,344 for Blossom Court Subdivision. Mr. Barry seconded.
32 Motion carried 7-0-0.

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34 Mr. Byron hopes that the consultant engineer is also updating the cost estimates for hot
35 top, etc. and the bonds for other developments should be adjusted to make sure the bonds
36 are appropriately priced.

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38 **Impact Fee Alignment** - Mr. Byron said the Selectmen voted to approve \$7,400 for this
39 year for the impact fee realignment. Mr. Perry will work on getting the contract firmed up
40 with the consultant.

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42 There being no further business, Mr. Perry **MOTIONED** to adjourn the meeting. Mr.
43 Fuertes seconded. Motion carried 7-0-0. The meeting adjourned at 10:53 p.m.

Litchfield Planning Board

November 18, 2008

- 1 Lorraine Dogopoulos
- 2 Recording Secretary
- 3