



TOWN OF NEW LONDON, NEW HAMPSHIRE

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ZONING BOARD OF ADJUSTMENT (ZBA) MEETING MINUTES Tuesday, July 18, 2023 Whipple Town Hall, 6:30pm

MEMBERS PRESENT: Michael Todd (voting), Heidi Lauridsen (voting), Lauren Snow Chadwick (voting), Steve Root (voting), Conrad Bolton (voting), Peter Theroux

MEMBERS ABSENT: Ann Bedard, Katherine Fischer, Frank Anzalone

OTHERS PRESENT: Adam Ricker, Zoning Administrator, Peter Nichols, John Ellis, Tom Manion, Lori Underwood, Wayne Morrill, Joe Hogan, Dan Grace, Stefan Timbrell, Terry Bingham, James Callahan, Rhonda Tinkham, Mary Floyd Evans

- 1. Call to Order**– Michael Todd called the meeting to order at 6:30pm and called the roll. Lauren Snow Chadwick, Steve Root and Conrad Bolton were appointed as voting members tonight.
- 2. Public Hearing(s):**

Case # **ZBA 23-03**
Applicant Continuum Health Services, Inc.
Owner New London Hospital Association
Address County Road
Parcel ID 072-019-0-0-0
Zone(s) Urban Residential (R-1)
Summary:

• #ZBA 23-03 – Continuum Health Services, Inc. is applying for a variance from Article XIX Planned Unit Development, Section B, General Requirements, 9, Water and Sewer Service. The provision requires that all Planned Unit Developments (PUD) be connected to the New London/Springfield Water Precinct for domestic use and fire protection purposes. The applicant is requesting the variance to provide domestic water service from private wells on site.

Chair Todd stated that due to communication from the state of New Hampshire, the water precinct is unable to provide the volume of water that is required for this project. As a result, in order to seek other sources of water, the owners are obligated to come before the ZBA to request a variance from that section of the ordinance.

Jim Callahan, a lawyer representing Continuum Health Services Inc. introduced himself as well as Wayne Morrill of Jones and Beach Engineering and Tom Manion and Lori Underwood from New London Hospital. Mr. Callahan shared this is a project that has been in development for a while and was interrupted by a global pandemic which caused supply chain and labor issues and costs have gone up. The town of New London ordinance requires that Planned Unit Development (PUD) properties be served water from the water precinct. In 2019 the water precinct, working with their consultant, Underwood Engineering determined that there was sufficient capacity to tap into the system for water for the project. However, in March 2023, they

were informed by the water precinct that there was insufficient water for the project and therefore will need a variance.

Mr. Callahan outlined the five criteria that support the applicant's request:

1. Granting the variance would not be contrary to the public interest – In this case, the proposed use will not necessitate public expenditure for transportation, water, sewer or life safety. Accordingly, this proposed use is not contrary to public interest. Chair Todd asked if this variance was granted, would it change the essential character of the neighborhood? Mr. Callahan responded he does not believe that it will.
2. The spirit of the ordinance would be observed – The purpose of the ordinance is to encourage flexibility in the design and development of land in order to promote the most efficient use of the land and to preserve natural features and open space. Allowing private wells will promote the flexible use of the space as it is intended by the PUD Ordinance. Additionally, the private well will be unobtrusive and not utilize much space at the project.
3. Granting the variance would do substantial justice - Mr. Callahan stated this basically comes down to whether there is a public benefit that would outweigh the hardship to the applicant. In this case, the applicant has been relying for several years on the representations that the precinct could supply sufficient water to the project. Now that there is clarity that this is not the situation, denying the variance will create a substantial hardship for the applicant.
4. If the variance were granted, the values of surrounding properties would not be diminished – Mr. Callahan stated he sent a letter of opinion to Adam Ricker today from local realtor Stefan Timbrell. Mr. Timbrell knows the market well and concludes in his letter there will not be any adverse impact on the value of surrounding properties should this variance be granted.
5. Unnecessary Hardship
 - i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision of the property. The purposes of the ordinance are to ensure that the project land is developed flexibly and efficiently. Mr. Callahan stated he isn't sure if there is any stated reason why this part of the ordinance mandates connection to the precinct but perhaps it's to ensure that the resources offered by the precinct are adequately utilized. It is irrelevant, however because the precinct has informed them that they don't have the capacity.
 - ii. The proposed use is a reasonable one - The applicant is proposing to construct a building with a health care component which is compatible with New London Hospital and is supportive of its charitable mission.

The fact that the ordinance requires connection to the precincts water system but the precinct does not have sufficient capacity which in and of itself is a hardship, which if the variance is not granted, will prevent the applicant from using the property in strict conformance with the ordinance.

Steve Root asked for more information about the well and if it is needed for fire protection or only for domestic water. In the letter, the Chairman of the precinct stated that it is possible that the precinct will be able to provide fire protection for the New London Place project. Mr. Callahan responded that is correct, the letter states that it is possible but that is not a

certainty. He doesn't want to distinguish between whether or not they are restricting this to domestic use or fire protection. Ideally, they would get water for fire protection from the precinct but if not, they don't want to have to come back to ask for a second variance. Mr. Root would like to determine if a well is going to be a solution to the problem. Will it be just one or several wells, what do other wells in the area produce, can it produce enough for fire suppression or will there need to be a big tank. Mr. Callahan responded once they get into capacity and testing, this may be more the purview of the planning Board. Wayne Morrill stated the intent would be to drill two wells so there is always a backup well. If they don't achieve the gallons per day needed for the fire system, they would have to put in a tank system. At this point they don't know how much water they will get. They are asking the board to give them the right to investigate this to find a well that works. The intent is to do the engineering and find the best place for the well and then drill the wells to make sure they get the gallons per day that they need. Steve Root has concerns that this is a real solution to the problem. Mr. Callahan stated if testing and studies determine there is no water, Continuum isn't going to build the project. They aren't going to invest in doing the engineering without being granted the use variance.

John Ellis asked how many units are being proposed in this area. Wayne Morrill responded 109 units. Mr. Ellis what would the required volume of water would be for that many units? Mr. Morrill responded roughly 25,000 gallons per day. In a community water system like this, you typically drill two wells so between the two of them they would need to supply that amount. Mr. Ellis asked if this variance would be transferable to another owner if it was decided that Continuum wasn't going to move forward. Adam Ricker stated that variances run with the land but they do expire if not implemented within 24 months and it would have to be another PUD or retirement care community. Other developments wouldn't be subject to the same condition. There is conflicting data as the consulting engineers state 25,000 gallons per day is what is needed but the letter from the water precinct states 34,000. Steve Root suggested they ask the water precinct if they are using the wrong number. Adam Ricker shared the prior site plan had 157 units so they may have been calculating it based on a higher number of units.

Terry Bingham asked if the 109 units included the assisted living memory care area? Mr. Morrill responded yes. Ms. Bingham also clarified that if they don't have sufficient water quality they won't move forward. Mr. Callahan responded no; it is more trying to determine quantity versus quality. It is common to find different things in water if you are using a well and treatment and filtering can be done. If they can't get a well, they may go back to the water precinct to see if there were other options but this is a process. If they get approval tonight, they would move forward to get test wells drilled as soon as possible.

Rhonda Tinkham asked if they would be notifying the surrounding owners when they drill the test wells. Any time there is drilling there is a risk of impact on housing and buildings in that immediate area. Chair Todd stated this is true of fracking and blasting but he isn't aware that testing for wells would have an impact. Has she had a personal experience to that effect? Ms. Tinkham responded yes, and that is why she is asking. Mr. Callahan stated he doesn't know what the process is but it is his understanding that there aren't any private wells in the area. Whatever is done will be compliant with any regulations related to that process. Chair Todd asked if there would be any objection to having a condition of approval for the variance be that a public notice would be posted. This notification would allow land owners and abutters to take whatever actions are needed to protect themselves.

Dan Grace is one of the owners of Capital Well company and stated they have been in business for 37 years and drill about 400-500 wells a year. He has never witnessed damage done to an abutting property due to drilling. He shared the drilling process in this case will be similar to residential projects they do; they just may have to go a little deeper to get adequate flow. It's not comparable to blasting and you wouldn't know it was going on unless you could hear it. They regularly drill within five feet of foundations with no issues. Any vibration will be 60-80 feet below ground surface. In cases where there is low flow rate, they can use buried storage tanks which allows wells to recharge slower or pump less water out. A good target would be 10 gallons per minute per well. Mr. Grace shared that his house is about three miles away and his well produces 100 gallons per minute. Mr. Grace shared that the New Hampshire Department of Environmental Services database tracks information on wells drilled post 1984. Any wells drilled prior to 1984 is not recorded in the database. There are no records of any wells drilled within 1.5 miles of this property.

IT WAS MOVED (Steve Root) AND SECONDED (Lauren Chadwick) to discuss. THE MOTION WAS APPROVED UNANIMOUSLY.

Chair Todd stated there is an option to continue the hearing tonight and request that a representative from the precinct attend a meeting to answer questions. Steve Root responded they have the letter from the precinct which clearly states that they cannot provide water. Lauren Chadwick agrees that this isn't necessary.

Finding of Facts:

The Zoning Ordinance is written with the purpose of supporting Planned Unit Development on properties located within the PUD Overlay District. Granting a variance to the requirement to connect to the New London-Springfield Water Precinct is not contrary to the intent of the ordinance. Fire suppression provided on site via connection to the NLSWP or private well serves a public good.

After discussion, the board made the following motion:

IT WAS MOVED (Steve Root) AND SECONDED (Michael Todd) to approve the application for a variance from Artic XIX Planned Unit Development Section B, General Requirements, 9, Water and Sewer service to Continuum Health Services Inc. The Board finds the Zoning Ordinance is written with the purpose of supporting Planned Unit Development on properties located within the PUD Overlay District. Granting a variance of the requirement to connect to the New London -Springfield Water Precinct is not contrary to the intent of the ordinance. Fire suppression provided on site via connection to the NLSWP or private well serves a public good. The approval is conditioned on the requirement that the applicant post a public notice thirty (30) days prior to the drilling of wells in a publication of general publication. The

THE MOTION WAS APPROVED WITH A VOTE OF 5-0.

3. Motion to Adjourn

IT WAS MOVED (Lauren Chadwick) AND SECONDED (Steve Root) to adjourn. THE MOTION WAS APPROVED UNANIMOUSLY.

The meeting was adjourned at 7:31PM

Respectfully submitted,

Trina Dawson

Recording Secretary
Town of New London