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Effingham Zoning Board of Adjustment
Meeting Minutes
December 14, 2020
Via Zoom Video/Teleconference

Members Present: Theresa Swanick (chair), Tim White (vice chair), Jim Pittman, Knute Ogren, and Leonard Fitzgerald.

Others Present: Nate Fogg, and Rebecca Boyden (Zoning Officer, Chris Boldt (Special Counsel for ZBA), David LeFevre, Eric Spofford, Louis Manias, Fred Stratmann, George Silvestri, Chuck Schubert, Michael Cahalane (Selectman), Chuck Fuller (Selectman).

Chair Swanick called the meeting to order at 6pm.

Continued Hearing for 244 Highwatch Rd (Green Mtn Treatment Ctr) Application

[3-prong application: Special Exception, Variance, Appeal of Admin. Decision]

Chair Swanick asked Mr. Lefevre if he had anything to add at the outset of the continued hearing. Mr. Lefevre stated that he submitted to ZBA clerk Mr. Fogg late today a written reiteration of testimony last time from Mr. Manias. Chair Swanick noted that had not been received by the board. Mr. Lefevre said it is not new information; that it is what he had testified to previously. Mr. Fogg said he emailed it along to the ZBA members just a few minutes ago as the meeting began.

Mr. Ogren said that he received it and cannot immediately say if with all the detail it is the same as what was provided as testimony. Mr. Pittman said he reviewed it and there are comp properties that were evaluated and since Mr. Manias is on the call, could he share with the board the conclusions he made. Chair Swanick agreed for any additional information to be shared, but noted again she does not have the document, nor does Mr. White. (Mr. Fogg sent the document again to the chair, vice chair and special counsel)

Chair Swanick asked Mr. Manias to continue. Mr. Manias said last time that he couldn't find evidence of diminution in value of adjacent properties when a treatment center is located in a residential neighborhood. He provided a list of comparable sales, looking at adjacent property to a similar facility. Showed properties in Lebanon before and after sale... property closer or further away from a treatment center, in Plymouth, Canterbury and Dublin. No market evidence of diminution in value due to presence of treatment facility.

Chair Swanick said those examples seem to indicate values due to the presence of a facility. The abutter questioning this application purchased his property well aware of the presence of the facility. He challenges the effect of the expansion of the existing facility, not the presence of the facility.

Mr. Manias said it would be too difficult to determine the objective impact of a specific expansion of a facility.

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Mr. Pittman can appreciate this is difficult to measure. There may be no prior similar case to quantify the value either way regarding the impact of expansion of similar facility. Mr. White agreed. Ms. Swanick asked if there were other questions from the board.

Mr. Manias said he had another comment. He referred to Mr. Silvestri stating the appraisal that he submitted which had been used in a tax abatement complete by Vern Gardner, where there was a 10% impact to his property due to the presence of the facility. Mr. Manias quoted from it reading from the Neighborhood Description: Opposite the subject, obscured from view by an apple orchard is the Green Mtn Treatment Center, build twenty years ago...” That is the limit of the reference to GMTCC. Chair Swanick asked if Mr. Lefevre had anything else. He did not.

Chair recognized Mr. Silvestri who said he did not submit an appraisal by a Vern Gardner, that his appraisal submittal would have been by Chuck Schubert who us here on this call now. He realizes an appraisal for tax abatement is not best evidence for this matter. He asked Mr. Schubert to be here to opine as to value of property if facility is expanded across the street. He also said that he submitted a letter presenting his written argument in this matter. Chair Swanick welcomed him to review highlights of his letter.

He said variance criteria would not be met vis a vis character of neighborhood if replace apple orchard with this facility. And there would be devaluation of his property. If balance the harm to me if variance is granted vs the harm to the applicant if the variance is denied, they won't have any harm as they will still have their existing facility and operation, which plan to increase 40%.

Currently facility is way up on a hill, barely visible to me, and what is proposed is chopping down an orchard and putting this facility right down by the road. I submitted a photograph from my yard facing the current orchard with a flagged stake where the facility is probably marked to go. You can see how visible from my yard. I believe there are 75 acres – why does it have to go right down across from me. “The specific placement is going to change the character of the neighborhood and diminish my property value.”

Mr. Silvestri reviewed timeline and value of his property relative to the applicant property. In April 2010, my predecessor bought my property for \$625k. In 2013 head trauma facility sold for \$8.2M, then in 2017 it was purchased for \$10.4M, use changed to drug recovery facility. In 2017, I bought my \$412k value of my property dropped 35%. This does not square with the information Mr. Manias offered.

Chair Swanick shared a screen shot of Google Earth aerial view of 244 Highwatch Rd, and asked Mr. Silvestri if the proposed expansion was instead located behind the existing facility, how would that affect hm? Mr. Silvestri said it would be much lesser effect. [Technical difficulties – chair fell off the Zoom call and had to log back in.]

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Chair apologized for the interruption. Returned to the question to Mr. Silvestri of effect of relocating the expansion to the rear of existing facility. Mr. Silvestri – the placement is a big part of his objection and if they were to change that He could see changing his mind.

Chair called on Mr. Lefevre to speak to the possibility to relocation of the expansion. He deferred to Mr. Spofford. Mr. Lefevre said he is still not understanding some of the objection. He said the building is allowed. If someone wants to add a building that could do that. This is more of a planning board type issue. If it was a university, we wouldn't be in front of the ZBA. It is more what we are using the property for that is at issue. And he defers to Mr. Spofford.

Mr. Spofford said he was happy to speak to that. Chair asked him to proceed. He said he agreed that it was more of an issue for the planning board but that he was open to locating the structure behind the existing facilities if that would garner Mr. Silvestri's support. Chair thanked him, appreciates this might pave way to amicable solution to the challenge to the application.

Ms. Boyden's comment was breaking up. She said two things: adjusting the location does not address to the appeal of expansion of nonconforming use. Then her connection broke up. [Technical difficulties, resolved to have Ms. Boyden on the phone with Mr. Ogren]

Ms. Boyden gave her opinion that before us is a Special Exception to change or expand the nonconforming use, and changing the location of the proposed expansion is not germane to the application. She wanted to respond to something from last meeting regarding Appeal of Administrative Decision. She wants to be clear for the record that this facility is not a school.

[Mr. Silvestri got back on the call after having dropped off.] Chair reviewed for Mr. Silvestri of points Ms. Boyden made re location of building not relevant to Special Exception and definition of school re Appeal of Admin Decision. But she did not address criteria for Variance. Mr. White – each of these prongs of the application can be considered mutually exclusive to the others; one prong can be conclusive for the application.

Mr. Silvestri asked if Mr. Schubert could testify and be allowed to be dismissed. He offered opinion for Mr. Silvestri. Lived in Carroll County and is familiar with the area. On NH Real Estate Appraisal Board. BS in real estate. A few points. This property is fairly unique, it is rural at the end of a road, rather secluded in that respect. He did appraisal for Silvestri property, thought he should have a about 10% reduction in value due to the treatment center. Study 2014: Not In My Back Yard – effect of treatment centers on residential values: evidence that residential substance treatment centers can effect adjacent properties. It matters what the treatment center is, head trauma vs substance recovery. He spoke to agent of prior owner. Reason prior seller wanted to sell the house is that she was fearful of the activity at the center. In decreasing market she paid \$600k and in increasing market the value went down 34% when she sold.

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Use more onerous – 50% increase in services/staff/ etc. Removal of apple orchard is removal of buffer, across street from the driveway. Hard to believe it would not impact value. Mr. Schubert thinks it could be more than 10% affect. Gardner appraisal relevant as he thought no diminution on value due to center being obscured from view. This expansion as proposed is in your face, so to speak. The bottom line is there would be a loss of value. Mr. Schubert said putting expansion behind existing facility greatly reduces issues.

Mr. White: what would effect in value be if expansion is moved to the rear of facility? Size of the project would be added diminution but location is most significant thing. Moving it outback, or keeping the apple orchard, obscuring the expansion from view would minimize the damage.

Mr. Ogren raised the issue of learning of multiple to facilities that are part of this operation. Amount of outpatient treatment with this expansion. Is this a hospital? Mr. Spofford replied no increase in outpatient care and no emergency room type activities.

Mr. Silvestri said he is encouraged by possibility of moving expansion. Mr. Pittman asked Mr. Silvestri if there were other changes that would help. Noting planned expansion of operation significantly, there likely would be increased security. Chair asked Mr. Spofford about increased security. He accepted invitation for coffee by Mr. Silvestri. He said there don't have 'security' per se, and have staffing and will increase staffing. Will give a ride for folks that wants to leave, and they are there voluntarily can leave any time.

Mr. Ogren asked how many come to Green Mt Treatment Center for day treatment? Ms. Boyden asked if this was a change of use? Mr. Spofford could not say how many come in to day treatment services. Lake View offered day services for offsite clients as well.

Mr. Pittman suggested closure of public input and continued to another date certain to deliberate. Chair Swanick asked the applicant if there was anything further to add. Mr. Lefevre said he would not add anything further except can we come back as soon as possible. Mr. Silvestri said he had nothing else to say, it was all in his letter. Mr. White pointed out that Mr. Silvestri's letter was before the suggestion for relocation of the proposed expansion. He stands by the letter if there is not a relocation of the proposed expansion.

Motion by Mr. Pittman to continue the public hearing until Monday December 21, 2021 via zoom at 6pm, seconded by Mr. White. All in favor, Pittman-aye, White- aye, Ogren-aye, Fitzgerald-aye, Swanick-aye.

Motion to Adjourn by Mr. Pittman, seconded by Mr. White, All in favor, Pittman-aye, White- aye, Ogren-aye, Fitzgerald-aye, Swanick-aye. The meeting adjourned at 8:13pm.