

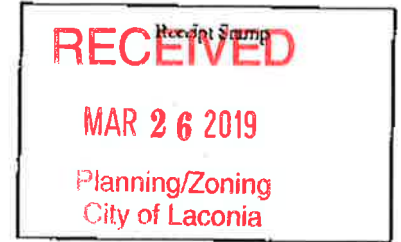


Fee: 75 Check #: 4590

PROJECT NAME (if applicable) - GARDENS AT WINNIPESAUKEE

STREET ADDRESS- 135 ENDICOTT ST. EAST

(must include 911 address if assigned)



PARTIES INVOLVED - Those listed below will receive Planner Reviews and Notices of Action by the Board.

Applicant / Owner ADDRESS PHOENIX CAPITAL, LLC
17 LINDA ROAD
ANDOVER, MA 01810

PHONE (978) 397-1635
FAX _____
EMAIL v.apelian@aol.com

Agent ADDRESS PATRICK H. WOOD
635 MAIN ST., STE 302
LACONIA, NH 03246-3415

PHONE (603) 524-1446
FAX (603) 524-1778
EMAIL [phwood@patrickwoodlaw.co

PROPERTY INFORMATION

Map 164 Street 72 Lot 001

Map _____ Street _____ Lot _____

Zoning District(s) SFR

Application # _____

Current Dates:

Plan Revisions: _____

Site Improvement Security: _____

Mylar, final plans: _____

Completion: 4/17/2019

Requested Dates:

Plan revisions: _____

Site Security: _____

Mylar, final Plans: _____

Completion: 4/13/2020

Reason for Request

PROJECT FINANCING HAS BEEN DELAYED

Application ZO2017-0008 (2 variances) and Application ZO2017-0009 (Copies of Notices of Action are attached.)

Total of 3 applications

[Signature]
Property Owner's Signature

3/25/19
Date

[Signature]
Agent's Signature

25 March 2019
Date



DEPARTMENT OF PLANNING & ZONING
ZONING BOARD OF ADJUSTMENT
☎ 603.527.1264
☎ 603-524-2167
PLANNING@LACONIANH.GOV

NOTICE OF ACTION
City of Laconia
Zoning Board of Adjustment
Meeting of April 17, 2017

Phoenix Capital LLC
17 Linda Road
Andover MA 01810

Application # ZO2017-0008 Endicott Street East, Phoenix Capital LLC, located in the SFR zone. Request variance from 235-40.B.(6)(h)[1], to permit the encroachment into the 40 ft perimeter buffer for the pump house, community room (assuming the Planning Board grants the requested waiver), to permit the construction of some of the residential structures within the 10 ft setback form the perimeter buffer to permit the construction of one residential structure, unit #77, within the 50 ft wetland buffer and to permit the construction of some of the residential structures within the 10 ft setback from the wetland buffers. to construct buildings in the 10 ft perimeter setback for a cluster subdivision

This is to certify that at the meeting held on April 17, 2017, the City of Laconia Zoning Board of Adjustment voted to **approve** your request for variance as applied for and shown in the site plans submitted, with conditions:

1. **THE VARIANCE WILL NOT BE CONTRARY TO THE PUBLIC INTEREST:** The development of the property will be using existing site work and reducing the amount of additional disruption on the site. The variance would encourage the sound development of the land and help preserve open spaces and protect the natural resources while also enhancing the living environment of this development.
2. **THE SPIRIT OF THE ORDINANCE WILL BE OBSERVED:** The use is consistent with area's current use and character as housing. The proposed variances do not conflict with the purposes and intents of the District and do not violate the basic objectives of the Laconia Zoning Ordinance since these setbacks would not apply but for the fact this is a cluster development. There would be no alteration of the basic and essential character of the neighborhood by the granting of these variances.
3. **SUBSTANTIAL JUSTICE WILL BE DONE IN GRANTING THE VARIANCE:** Utilizing the existing infrastructure system is a reasonable development proposal. With that existing infrastructure, the locations of residential units must be established in manners that fit that infrastructure. In keeping with the concept of flexibility in design for cluster developments, the residential structures are located to provide an attractive living environment and accommodate the need for off street parking for the residences.
4. **THE VALUE OF THE SURROUNDING PROPERTIES WILL NOT BE DIMINISHED:** This cluster residential development will not diminish the values of surrounding properties because it is basically the same type of development that surrounds the property. These minor variances within the confines of the whole project and will not be noticeable by any of the abutting properties. The encroachments into the 10-foot setback from the 40-foot perimeter buffer means the buildings will still be at least forty feet from the perimeter instead of the normal 10 foot side setback or the 15 foot rear setback.
5. **LITTERAL ENFORCEMENT OF THE PROVISIONS OF THE ORDINANCE WOULD RESULT IN AN "UNNECESSARY HARDSHIP"**

(A) The property is distinguishable from many neighborhood properties: The special conditions of this property are that it was already substantially developed for a more intensive residential purpose and major work was done on the site for that prior development. The goal of the Applicant is to retain that previous work to reduce the impact on the property and the neighborhood that would be created if the prior site work were to be removed and a whole new infrastructure were to be developed. Utilizing the existing infrastructure also requires the residential structures to be situated to use that infrastructure effectively, which is in accord with the requirement to provide economical and efficient public services.

i. There is no fair and substantial relationship between the goals: The unusual condition of the Applicant's property is such that utilizing the existing road system and infrastructure is more in keeping with the general purposes of the Ordinance than requiring a total reworking of that road system. Siting the residential structures in manners that accommodate the existing infrastructure yet meet the new 50-foot buffer from wetlands and the 40-foot perimeter buffer are examples of creativity and flexibility in design in order to develop the land in an environmentally sound manner.

The Applicant's proposal is designed to do exactly what the Zoning Ordinance promotes -good design to use the Applicants' property in a safe and appropriate manner and to do so in a way that improves overall safety and does not disturb the neighborhood or the neighbors. If the setbacks are enforced, the Applicant will have to choose between reducing open space and amenities, which makes the development less attractive, or abandon the project entirely. Neither of those options are within the reasonable purposes of the Ordinance.

ii. The proposed use is reasonable: Utilizing the existing road system and infrastructure on this property is not only reasonable but is part of a good civic design that meets many of the purposes and objectives of the cluster development provisions of the Ordinance. It is environmentally sound; it preserves open space; it protects existing resources; it enhances the privacy of the development; it permits the use of existing infrastructure; and it helps to create a residential environment that provides adequate open space and common area amenities adjacent to the residential units.

The property was substantially developed within the parameters of prior municipal approvals. Requiring all that prior site work to be removed and recreated in different locations would be more detrimental to the property and the neighborhood than would the granting of this variance. Strict conformance with the ordinance would make this project not feasible as currently designed. Granting the variances would be reasonable and would be in keeping with the goals and objectives of the Laconia Zoning Ordinance.

APPEAL Within 30 days of the decision rendered by the Zoning Board of Adjustment; any party to the action or any person directly affected may move for a rehearing in respect to any matter determined in the decision, and must specify such grounds in the motion for rehearing. A copy of the minutes will be available in the Planning Department if you wish to review them or obtain a copy.

This Variance is valid for two years from the date of decision. If construction of approved item has not commenced by this time then a request for an extension or new application must be submitted.

CERTIFICATION

I hereby attest that the foregoing is a true and accurate record of the action of the Zoning Board.



Dean Trefethen - Planning Director

4-25-2017
Date



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NOTICE OF ACTION
City of Laconia
Zoning Board of Adjustment
Meeting of April 17, 2017

Phoenix Capital LLC
17 Linda Road
Andover MA 01810

Application # ZO2017-0008 Endicott Street East, Phoenix Capital LLC, located in the SFR zone. Request variance from 235-40.B.(6)(h)[1], to construct buildings in the 10 ft perimeter setback for a cluster subdivision

This is to certify that at the meeting held on April 17, 2017, the City of Laconia Zoning Board of Adjustment voted to **approve** your request for variance as applied for and shown in the site plans submitted, with conditions:

1. **THE VARIANCE WILL NOT BE CONTRARY TO THE PUBLIC INTEREST:** The development of the property will be using existing site work and reducing the amount of additional disruption on the site. The variance would encourage the sound development of the land and help preserve open spaces and protect the natural resources while also enhancing the living environment of this development.

2. **THE SPIRIT OF THE ORDINANCE WILL BE OBSERVED:** The use is consistent with area's current use and character as housing. The proposed variances do not conflict with the purposes and intents of the District and do not violate the basic objectives of the Laconia Zoning Ordinance since these setbacks would not apply but for the fact this is a cluster development. There would be no alteration of the basic and essential character of the neighborhood by the granting of these variances.

3. **SUBSTANTIAL JUSTICE WILL BE DONE IN GRANTING THE VARIANCE:** Utilizing the existing infrastructure system is a reasonable development proposal. With that existing infrastructure, the locations of residential units must be established in manners that fit that infrastructure. In keeping with the concept of flexibility in design for cluster developments, the residential structures are located to provide an attractive living environment and accommodate the need for off street parking for the residences.

4. **THE VALUE OF THE SURROUNDING PROPERTIES WILL NOT BE DIMINISHED:** This cluster residential development will not diminish the values of surrounding properties because it is basically the same type of development that surrounds the property. These minor variances within the confines of the whole project and will not be noticeable by any of the abutting properties. The encroachments into the 10-foot setback from the 40-foot perimeter buffer means the buildings will still be at least forty feet from the perimeter instead of the normal 10 foot side setback or the 15 foot rear setback.

5. **LITTERAL ENFORCEMENT OF THE PROVISIONS OF THE ORDINANCE WOULD RESULT IN AN "UNNECESSARY HARDSHIP"**

(A) The property is distinguishable from many neighborhood properties: The special conditions of this property are that it was already substantially developed for a more intensive residential purpose and major work was done

on the site for that prior development. The goal of the Applicant is to retain that previous work to reduce the impact on the property and the neighborhood that would be created if the prior site work were to be removed and a whole new infrastructure were to be developed. Utilizing the existing infrastructure also requires the residential structures to be situated to use that infrastructure effectively, which is in accord with the requirement to provide economical and efficient public services.

i. There is no fair and substantial relationship between the goals: The unusual condition of the Applicant's property is such that utilizing the existing road system and infrastructure is more in keeping with the general purposes of the Ordinance than requiring a total reworking of that road system. Siting the residential structures in manners that accommodate the existing infrastructure yet meet the new 50-foot buffer from wetlands and the 40-foot perimeter buffer are examples of creativity and flexibility in design in order to develop the land in an environmentally sound manner.

The Applicant's proposal is designed to do exactly what the Zoning Ordinance promotes -good design to use the Applicants' property in a safe and appropriate manner and to do so in a way that improves overall safety and does not disturb the neighborhood or the neighbors. If the setbacks are enforced, the Applicant will have to choose between reducing open space and amenities, which makes the development less attractive, or abandon the project entirely. Neither of those options are within the reasonable purposes of the Ordinance.

ii. The proposed use is reasonable: Utilizing the existing road system and infrastructure on this property is not only reasonable but is part of a good civic design that meets many of the purposes and objectives of the cluster development provisions of the Ordinance. It is environmentally sound; it preserves open space; it protects existing resources; it enhances the privacy of the development; it permits the use of existing infrastructure; and it helps to create a residential environment that provides adequate open space and common area amenities adjacent to the residential units.

The property was substantially developed within the parameters of prior municipal approvals. Requiring all that prior site work to be removed and recreated in different locations would be more detrimental to the property and the neighborhood than would the granting of this variance. Strict conformance with the ordinance would make this project not feasible as currently designed. Granting the variances would be reasonable and would be in keeping with the goals and objectives of the Laconia Zoning Ordinance.

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CERTIFICATION

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Dean Trefethen - Planning Director

4-20-2017

Date



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NOTICE OF ACTION
City of Laconia
Zoning Board of Adjustment
Meeting of April 17, 2017

Phoenix Capital LLC
17 Linda Road
Andover MA 01810

ZO2017-0009 Endicott Street East, Phoenix Capital LLC, located in the SFR zone. Request variance from 235-40.B(6)(g), to construct roads in the 40 ft perimeter buffer for a cluster subdivision

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CONDITIONS:

1. A minimum of a fence shall be built along the eastern corridor of the property to shield lights from vehicles from the adjoining property; the Planning Board to decide if further shielding is necessary for that area.
2. The fence should be noted in the homeowner's documents and that the home owners association will be responsible for upkeep of the fence and be responsible for the fence.

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Dean Trefethen - Planning Director

4-20-2017
Date