PLANNING BOARD
TOWN OF PETERBOROUGH, New Hampshire

Workshop Minutes of October 18, 2010

The Peterborough Planning Board held a workshop on Monday, October 18 , 2010 at 5:30 p.m. in the Selectmen's Meeting Room of the Town House.

Members Present: Richard Freitas, Bill Groff, Leandra MacDonald, Ivy Vann and Rick Monahon.

Staff Present: Carol Ogilvie, Director, and Laura Norton, Administrative Assistant, Office of Community Development.

Chair MacDonald called the workshop to order at 5:35 p.m. and distributed a copy of the Open Space Committee's 2011 calendar entitled *A Year in the Wild*. She asked if the members had reviewed the draft copy of the Regional Concerns Chapter for the Master Plan, then asked Ms. Ogilvie "should we have the Committee come in?" Ms. Ogilvie replied "if you have specific questions they would be happy to come in" adding "this was an in-house project" and that no subcommittee had been formed to create the chapter. Ms. Ogilvie continued "the Cultural Resources Chapter is still out there, the intention was to present it to the Master Plan Steering Committee at their October meeting but that did not happen."

Mr. Monahon in at 5:40

Chair MacDonald noted that a discussion about the current agricultural provisions was on the agenda. She noted "there is a perception that Peterborough is not a town that is friendly to agriculture." She added "so we wanted to talk about it." She acknowledged a local farmer, Dan Holmes, who had been invited to the workshop to participate in the discussion.

Mr. Holmes began by distributing a questionnaire entitled "Is Your Town Farm Friendly?" noting it was a checklist for sustaining rural character created by the New Hampshire Coalition for Sustaining Agriculture. Mr. Holmes asked if he was free to speak, then began by noting his frustrations with the current zoning and building regulations. He said he managed Sunnyfield Farm on Route 136 in town, and "part of our plan was to make cheese" adding "so we brought in a consultant to come up with a plan for renovations to the barn to make that happen."

Mr. Holmes explained that when he brought the plan to the Code Enforcement Officer's office "we were told we would have to sprinkle the entire barn." He added "when the estimates got to $140,000.00 we threw our hands up and said this is not going to happen for us." Mr. Holmes looked at the members and said "appropriate regulation of agricultural uses came up for me when that happened." He also noted the unclear question of renovations when they equal or exceed the current value of the barn (in his case, $46,000.00) He added "I am not sure that was addressed." A brief discussion about the sprinkler regulation followed that included square footage of a structure and whether or not the building is subsidiary and/or nonresidential.

Mr. Holmes noted that he believed the Code Enforcement Officer had met with the Department of Agriculture about his specific plan "but I don't know of any resolution" he said.

Mr. Freitas asked if this came out of applying for a Building Permit. Mr. Holmes replied "yes, but then we withdrew it, deciding not to do it because the cost of the sprinkler system. It made it twice as much." Mr. Holmes repeated "appropriate regulation of agricultural uses."

Mr. Holmes noted "it happened again after our chicken house burned." He noted the chicken house had been built in the 1930s "and stood for 80 years until a fire took it out." He added, "we found to replace that building and comply with the International Building Code (IBC), we would end up with a Fort Knox for chickens." He added "my point is the building would end up appropriate for people, not chickens." The brief discussion that followed included the IBC in general as well as ground and snow load regulations. The members agreed that a potential recommendation would be to advise within reason the upsize of an accessory building and/or the ability to grant the Code Enforcement Officer to waive requirements for agricultural buildings.

Mr. Holmes also mentioned the use of native lumber off the farm itself "which we can do but it needs to be inspected by an engineer to make sure it meets grading standards." The members once again briefly spoke about the flexibility of the Code Enforcement Officer waiving certain requirements. "I think we could give him that authority" said Mr. Monahon.

Mr. Holmes also asked about use changes. He said "by gosh, *how* am I or *why* am I responsible for the cost of a future use change when I am building a chicken house?" He noted he would build it structurally sound but asked "why would I be held to a standard that *might* be applied to it years down the roads? The *changer* should be responsible for the upgrade of the building, not me."

An example of a change in use from agriculture to retail (an old barn into an antique shop) for discussion purposes followed. The members were in general agreement that being responsible for a change in function in the future (that may not even happen) was discouraging. Mr. Holmes noted "another example, I cannot farm in the Commercial Zone." Ms. Ogilvie confirmed that the regulations said that commercial agriculture may take place only in the Rural District. The members reviewed and discussed the regulations. Mr. Holmes mentioned the creation of rooftop gardens in non rural areas to raise and sell produce to Harlow's or Aesop's Tables "but I cannot do that" he said. Ms. MacDonald, however, clarified that "the tilling of soil and the growing and harvesting of crops and horticultural commodities as a primary or secondary use, or incidental sales of agricultural products" is permitted in all districts. Mr. Holmes noted his farm was subsidized by the Crotched Mountain Rehabilitation Center noting "but that may not last forever, we desperately need the development of appropriate agricultural lands in Peterborough."

Ms. Vann asked if New Hampshire has a Right to Farm Law with Ms. Ogilvie replying that there is statutory authority that disallows towns from unduly restricting agriculture. A brief discussion about the validity of the law followed. The members also discussed the wording of the regulation, the fears of abutters, crop versus dairy operations and Best Management Practices.

Mr. Holmes mentioned what he called *the green revolution* noting "we had the green revolution and everyone in this room lost." He spoke about the chemical revolution and how "our notion of agriculture is now tainted because of that. We have a right to be suspicious of agriculture if it is not appropriate and responsible." He added "that is why people want to keep agriculture in Illinois; they don't want that stuff running into their streams."

Mr. Monahon noted the state of Vermont recognizing that agriculture "as being absolutely critical to their state for tourism, it is stunningly agricultural." Chair MacDonald asked about the amount of prime agricultural land in the area with Mr. Holmes replying "more than we think we have." He added "Peterborough is a tourist destination for arts and scenery, lets make if for food as well." He went on to note "we need to become more agriculturally friendly, more willing to see the necessary changes to accommodate agriculture." He noted the notion of conservation of land for enhancement of recreation and wildlife "and when this first surfaced agriculture did not have a place in this, we need to revive our forest lands." A brief discussion about the blend of forest and agriculture enhancing the aesthetics of the land followed. Mr. Holmes noted "the turkeys and deer we see everyday would not exist in all wooded land." Mr. Holmes also mentioned the young, new farmers were tending to be organic farmers. He noted the larger farms in the area tended to be multi-generation operations that have their land all tied up. "We need to encourage young farmers to come in and use the five and ten acre parcels that are available in New Hampshire."

Mr. Holmes concluded by noting "so if I put $25,000.00 into a chicken house, even one holding up to 300 hens, there is no way I can recoup that money by selling eggs." He went on to explain some of the creative ways farmers are housing their animals because they cannot conform to the codes. He told the members "go by Sunnyfield, our animals are out and roaming, we have nutrient dense, healthy crops being produced."

A mention of the recent egg crisis brought on another brief discussion about Best Management Practices in the management of waste material and protection of ground waters. When asked about Best Management Practices for the maintenance of a healthy animal, Mr. Holmes replied "for a healthy animal, I don't think they are that helpful."

The members spent some time discussing pole and other acceptable designs for barns. Mr. Holmes noted that a pole barn would be an acceptable design "but I still can't use my wood from the property or my design without an engineers stamp on it, making a valuable plan for a Building Permit." Ms. Vann replied "we need to change this." The members briefly discussed giving the Code Enforcement Officer some flexibility with structures not intended for human habitation. Ms. Vann agreed but noted "we have to be careful with that, there is no one living at the New Hampshire Ball Bearing either."

In conclusion Mr. Holmes noted "well you have the handout" with Chair MacDonald and the members thanking him for coming in. Mr. Monahon noted "from a zoning point of view there are some very specific things we can think about and one of them is giving the Code Officer authority." Another member noted "it is not residential or manufacturing, it is a home for chickens; the liability of building construction is the issue of the builder. We are not in the position to say it is safe and what is not, that is up to the builder and the inspectors." The

members briefly discussed life safety issues, ground and snow loads, and building plans that come with engineering stamps.

Mr. Groff asked "is this a problem for others?" with Ms. Vann noting "the problem is we don't have many agricultural uses." The members discussed whether or not the IBC standards allowed for functional and affordable agricultural operations. Ms. Vann noted "Dan (Holmes) is a local farmer that has been put through the ringer, his experience has not been positive." She went on to note that if she were new to the area "I would pick a town grateful to have me not a town that will make it hard for me." Mr. Freitas interjected "I don't think you can waive safety and health regulations, it the building fell down with someone in it guess who is getting sued – the town." A brief discussion about safety and welfare followed. Mr. Monahon concluded the discussion by noting "We all know the building code is to prevent substandard structures." Another member interjected "what is a substandard chicken house?" Mr. Monahon suggested getting input from the Code Enforcement Officer with Ms. Vann noting "and see what he thinks the remedy is." Mr. Monahon noted "he is not an engineer, and I don't think he wants the authority to change the code."

"Alright" said Chair MacDonald, let's take a few minutes to review Traditional Neighborhood Development (TND Overlay Zone). Ms. Vann noted "as the person who did the background work on this there is not much to discuss at this time." She noted the realization that the overlay was only available to existing lots with town water and sewer. The members discussed the frontage issue (it is 150 feet with a reduction to 90 feet within the overlay district), the Waste Water Treatment Plant and the extension of municipal services. They went on to discuss several parcels of land (including the Hicks parcel in West Peterborough and the Eneguess parcel on Route 101) as being good examples for this type of infill. Chair MacDonald mentioned the extension of Rivermead as another village node. Ms. Vann referred to the project as the *dog bark plan* adding "if we build out to what it will look like – no one will like it and the dogs bark at it."

The members reviewed the illustration of lot and yard standards for the Family and General Residence Districts. Ms. Ogilvie reminded them the diagrams were not to scale. Ms. Vann noted "this is what the lot coverage will basically look like and it is OK."

Ms. Vann went on to speak about the proposed wetlands ordinance the Wetland Workgroup has been working on for months. She noted her concern that the ordinance will not pass as it is written with the 100-foot buffer/setback. She suggested another way to get around the problem of the setback noting "the 100 foot setback will not fly." A brief discussion that included the protection and maintenance of a 50-foot setback with strict enforcement of uses and non-uses as well as putting the planning back into the hands of the Planning Board followed. Ms. Vann noted "otherwise we will get nothing and we won't be able to bring this up again for another 5 or 6 years."

Ms. Vann noted an undisturbed, nonnegotiable 25-foot buffer with an additional 25-foot setback was a better approach to define the wetlands and "discuss what can and cannot happen in the setback." She also noted she thought monumenting "is a good idea, so we know where the edges (of the wetlands) are." She noted the ordinance would be managed by the Planning Board with a 25 foot monumented buffer and a 25 foot setback. She noted a pure vegetative buffer with

nothing in the first 25 feet with uses to be determined as the conditions of Conditional Use Permits are met. She concluded by saying "there are no negotiations below the first 25 feet; and uses in the second 25 feet will be allowed by engineering ." A brief discussion of just exactly what the engineering solutions would be for run-off and storm water management followed. One member asked "would you eliminate the rating system?" with Ms. Vann replying "we can use it internally I think." A brief discussion followed with Mr. Groff interjecting the need for foundation requirements. "How do you come up with this?" he asked. Ms. Vann noted the Board should think about it noting "we don't have to decide this tonight." Chair MacDonald noted "I don't know; I have felt all along the protection was not enough." The members briefly discussed the current regulation and the use of pervious surfaces and rain garden use to attain reductions in the setback area.

The members reviewed specific setback encroachment situations including site distance, cut and fill, connectivity of roads and special circumstances. Ms. Ogilvie noted she would call a special meeting of the Wetlands Workgroup to follow up.

The workshop adjourned at 7:15 p.m.

Respectfully submitted,

Laura Norton
Administrative Assistant