

**PLANNING BOARD  
TOWN OF PETERBOROUGH, New Hampshire**

**Minutes of July 1, 2013**

**Members Present:** Chair Joel Harrington, Ivy Vann, Alan Zeller, Jerry Galus, Audrey Cass, Rick Clark, Barbara Miller and Tom Weeks.

**Staff Present:** Carol Ogilvie, Director Office of Community Development and Laura Norton, OCD Administrative Assistant; Dario Carrara, Code Enforcement Officer.

Ms. Ogilvie noted Chair Harrington had phoned to let her know he was running about 10 minutes late. She asked Vice Chair Vann (Ms. Vann) if she would like to call the meeting to order and begin. Ms. Vann noted she would prefer to wait for the Chairman but suggested they could do some housekeeping items and called the meeting to order at 5:33 p.m. introducing the members and reviewing the June Minutes. A motion was made/seconded (Weeks/Zeller) to approve the Minutes as written (June 10, 2013 and June 27, 2013) with all in favor.

Ms. Ogilvie reminded the members about the Bus Tour re-scheduled for July 19<sup>th</sup> at 1:00 p.m. Ms. Vann asked “what are we touring?” with Ms. Ogilvie replying “projects that have been built since the 2003 Master Plan as well as looking at a couple of the zoning districts we have been talking about for quite some time.” She specifically mentioned Commerce Park and the Business/Industrial District noting “there have been proposed uses that don’t comply with the zoning; we need to talk about the future of those areas.” Ms. Ogilvie explained that there were about 20 sites scheduled “you will have a program” she said. Ms. Miller asked if the participants would be able to stop and walk around a site with Ms. Ogilvie replying “yes” adding “I have invited the EDA and the Business Support Committee of the Chamber of Commerce as well.” Mr. Weeks asked about the capacity of the bus with Ms. Ogilvie noting “there are 52 seats.” Ms. Miller asked if the Heritage Commission had been invited with Ms. Ogilvie replying she would extend an invitation to that group and any others that the members thought appropriate as space was not a problem.

Magic Flute Site Plan Amendment:

Case Chair Harrington arrived at 5:37 p.m. He apologized for being late, having stopped for a turtle crossing the highway. Chair Harrington noted the first agenda item for this special public hearing was an application to amend a site plan for a retail use approved by the Board on August 29, 2012 at 99 Grove Street. This land is owned by the Rite Aid Corporation, Parcel No. U018-069-100 in the Village Commercial District. The applicant proposes to change landscaping and buffering on the west side of the property.

Chair Harrington looked up and said “at this time I would like to turn this over to the applicant, the renter of 99 Grove Street.” Jacqueline Goohs stood up and introduced herself. She told the members she had removed some foliage from the perimeter of the property. A graphic was projected on the screen and Ms. Goohs pointed out where she had removed two rotting trees (noting they were an inch and a half in diameter) and a lot of brush and debris that had been discarded on the lot over many years. Ms. Goohs told the members “and it is actually growing

more now since we released the old growth and cleaned out the leaves” adding “there was no intention to cause any violation, it was done with honorable intent.” Ms. Goohs told the members some of the wood cut was from trees “hanging over the parking area, growing in a horizontal kind of way” but that none of the wood was from the actual 30-foot vegetative buffer” (this buffer is required when a commercial use abuts an existing residential use in the District). Ms. Goohs told the members “we will do what we need to do to move on.”

Chair Harrington replied “I would like to go to Dario (Carrara, Code Enforcement Officer) and ask him if he has anything to say.” Mr. Carrara replied “I drove by and I could see the residence in back of the 99 Grove Street lot.” He noted some of the wood looked larger in diameter than Ms. Goohs reported. He projected several photographs showing the back side of 2 Ames Court and how the screening had been taken away. Mr. Carrara also cited a letter received from James and Paula Stewart, the Ames Court property owners very concerned about the removal of the screening. “So I made an Administrative Decision that there was a violation, as what had been there provided a fairly decent screening and it has been removed.”

Chair Harrington asked Mr. Carrara how many trees he thought might have been removed. Mr. Carrara replied “I cannot answer that.” Chair Harrington asked “a dozen? Less than a dozen?” Mr. Carrara replied “at least that, but I am not a woodsman.” Mr. Carrara went on to note “it is not what is missing or how big it was; it is the fact that the screening is gone.”

Mr. Carrara noted he asked the applicant for a plan be submitted to the Office of Community Development to either install vegetative screening or install a fence. “Her plan is a fence” he said adding “which I felt was reasonable.” He noted he discussed it with Ms. Ogilvie who said she would bring it up to the Board “and we ended up here.” Ms. Goohs concluded “I will do whatever I am told to do.”

Chair Harrington asked if anyone in the audience would like to speak on the matter. Jim Stewart stood and introduced himself and his wife Paula as the Ames Court property owners. He referred to a letter he wrote that had been sent via email as well as included in the Board’s meeting packets. Mr. Stewart noted that throughout Ms. Gooh’s site plan review that screening was never addressed. “There was no discussion” he said “because the screening was there and the thought was it would remain intact.” Mr. Stewart noted “it was a forested area that in the summer time completely eliminated the intersection.” He noted that by clearing the trees, Ms. Goohs eliminated the screening. Mr. Stewart pointed out the designated parking area and additional trees that would have to be eliminated for that space. He noted several reasons why a fence on the property line would not serve them well. He pointed out the topography of the area of the property line and added “even if it is possible to put one there.” He also noted an elevation drop of about six feet that would make a fence irrelevant. “It would not screen it at all” he said. Mr. Stewart concluded by advocating for evergreens to be planted “to give back the protection we had originally.”

Chair Harrington reminded the members “when we approved the site plan screening was not addressed because it already had a vegetative buffer that met the buffer requirements. Nothing additional was required as it met the code and our ordinance.” He went on to say “but now that buffer has changed and it is out of compliance.”

Mr. Clark asked Mr. Carrara if he had actually measured anything on the lot. Mr. Carrara replied “no” adding “the regulation calls for a 30-foot buffer consisting of either vegetative screening and/or fencing when a commercial use abuts an existing residential use the District. There was screening and it has been removed.” Mr. Carrara reiterated that the Board understands “it is *not* the 30-feet, it is the screening” he said. Mr. Weeks added “and it is not visually or physically screened now.” Paula Stewart interjected “no, you can sit at the intersection and look into my daughter’s living room.”

Chair Harrington read from the ordinance that stated “a 30-foot buffer must be maintained.” Mr. Carrara made it clear that he was not around when that was written, “but a minimum of 30 feet is enough vegetative buffer to make a screening.”

Another brief discussion about a stockade fence (and its location) versus a vegetative material and the elevation of the slope followed. Mr. Stewart doubted a fence could be erected logistically and suggested fast growing arborvitae instead. Ms. Vann agreed by noting “I am not in love with the fence, they don’t tend to be beautiful and putting it off the property line would just cause confusion in future years.” “I agree” said Mr. Clark adding “plant evergreens, they are green all winter and it will be 10-15 years before they get large.” Mr. Week noted white pines might work well.

Mr. Stewart asked the members “please, please consider this.” He pointed out a portion of the cleared parcel noting “it looks like it is almost prepared to put a picnic table in there” adding “please put in a condition that this area cannot be used.” Ms. Goohs interjected that she was not sure if a use for that area would ever culminate.

Chair Harrington acknowledged Mr. Stewart’s concern adding “but my thinking about this area is that it is not within the buffer area and we should not be making conditions about it.” Ms. Vann agreed noting “people have a right to the use of their property, we need to protect the 30 feet of buffer, I would agree this is probably our best bet.” Mr. Stewart gave several examples of desired screening including a row of arborvitae 8 feet apart for the length of the property line. Mr. Weeks noted that some future use (another business) may encroach into the buffer and the only way to prohibit that would be enforcement by the Code Officer. Ms. Vann agreed but added “we cannot do a *what if* for everything but I do agree if we approve a row of trees it should be made clear that Dario (Carrara, Code Officer) can go out and check it.” She concluded that at some point she would like to have a discussion “about the whole buffer thing, what you can do in it, can you walk in it? Can you walk your dog in it?” she asked.

Chair Harrington confirmed there were no other questions and Ms. Vann noted she would like to make a motion. Mr. Carrara reiterated his request that the Board be specific “and tell the applicant exactly what you want from her.” Ms. Vann continued “I make a motion that the Planning Board requests the applicant provide an adequate visual screening plan to the residential uses along the west property line at 99 Grove Street. This plan will show the existing trees *as well as* number and spacing of new evergreen plantings which will be no less than 6 feet tall and no more than 8 feet apart, running the length of the residential property” adding “and this must be completed by August 30, 2013.”

Mr. Weeks added the plan be submitted to the Code Enforcement Officer for approval prior to signing the new site plan.

With the motion made/seconded (Vann/Miller) all were in favor.

Informal Discussion with Mary Graves:

Chair Harrington noted the second item on the agenda was an informal discussion with Mary Graves regarding a Subdivision. He noted Ms. Ogilvie had prepared a memo with some background information. He noted a Plat from 1981 that had been filed with the Registry of Deeds. Ms. Vann asked “the plat was filed but the subdivision was never done right?” Chair Harrington replied “yes” and asked if there any other questions or concerns from the Board. There were none. Chair Harrington looked at Mrs. Graves and said “I will open it up to you.”

Mrs. Graves began by telling the Board she was hard of hearing. Chair Harrington explained that it was her chance to tell the Board why she was here tonight. “It is an informal discussion, you have the floor” he said.

Mrs. Graves gave a brief history of her parcel of land noting she had purchased it from PIDC in 1981. She told the members that company had been composed of many of the attorneys in town “so they knew what they were doing.” She told the members “Peter Ryner (former OCD Director) called it a very sensitive piece of land, it is very beautiful but very limited.” Mrs. Graves explained how the parcel was zoned Industrial for years before she got it changed to General Residence, pointing out frontage on the road and the river. Mrs. Graves pointed out where she would like to subdivide her land noting she would sell one half and keep the other. “There is enough square footage to put a small home on each piece” she said. She showed the Board a deed prepared by the Brighton Law Office and a letter from the state that she said gave her unlimited access off of Route 202. She added “in the case where a road is abandoned the abutter can take it if the town says OK, I am the only abutter so Drury Road would revert back to me.” Mrs. Graves and the members reviewed the constraints of the three Overlays Districts (Wetlands, Shoreland and Rural Gateway) which all impact the property regardless of which zoning district the land is in with Mrs. Graves noting “anyway, (once subdivided) they both have adequate land.” Mrs. Graves concluded by noting “if you have lived in town for the past 30 years you would know this isn’t the first time I have been here and nothing has changed.”

The members briefly re-reviewed the constraints of the parcel with Ms. Vann saying “I don’t see why we would not allow her to subdivide, it is a simple subdivision. She would not be creating a non-conforming lot, why not accept a request for subdivision.”

Jim Stewart introduced himself as a friend of Mrs. Graves. He briefly reviewed the oblong shaped parcel and noted Mrs. Graves was present to see if there was anything that might be an issue with the parcel. “It seems like a reasonable use for the land” he said.

Chari Harrington advised Mrs. Graves the Board would need a Plat map and an application from her for the August meeting. He also strongly advised her to work closely with the Office of Community Development Staff for assistance and guidance.

Open Space Ordinance Review:

The members reviewed the new draft of the Innovative Subdivision Design Development. Ms. Ogilvie noted she and Mr. Throop had taken Mr. Week's suggestion from the last exercise and prepared three different scenarios for sustainable developments practices and the use of a density bonus point system in three different zoning districts. "We spent a lot of time on this" she said. The members then reviewed each of the sketches, the first of which was the Old Lobacki Farm parcel located in the General Residence District. The second sketch was a development on a parcel of land that was at one time considered a candidate for the Municipal Facilities Complex, located in the Family District and the third was the parcel where the Stone Barn is located which was a mix of both Rural and Family Districts. The members reviewed the dimensional requirements and density of the three scenarios. Ms. Vann noted that in all the proposed scenarios "no other information or other features were acknowledged." Ms. Ogilvie agreed and noted that for this exercise she had concentrated on doing the math on clear lots with the stated standards. Mr. Vann also noted the exercise was good but reiterated the importance of a site visit to identify natural resources and features. She also called out the enormous amount of impervious surface (roadway) in the exercises noting "that defeats our purpose; we want to limit impervious surfaces." She went on to note the bigger the lot, the more road, the more the road, the more impervious surface.

A discussion about minimum lot sizes, dimensional requirements and limiting impervious surfaces followed. Ms. Vann noted the areas they were talking about were rural for the most part. Chair Harrington noted the hard and fast 30% in the rural district. "We may be caught up on percentages in the land preservation, and may need to look at redistribution" he said. The members briefly discussed the tools that would help them determine what high value on a lot consisted of with Ms. Vann reminding the members of the importance of the initial site visit. Francie Von Mertens introduced herself as a member of the Conservation Commission. She affirmed the value of open space "is the connectivity and continuous lots." She also noted that parcel by parcel comparison and ranking "would not be helpful for this (ordinance)."

Referring to the development design criteria Ms. Ogilvie noted "when possible any designated open space will be located so that it is adjacent to other open space or protected lands that abut the subject property." This reiterated the importance of the initial plan including primary and secondary conservation areas as well as *other* adjacent open spaces. Chair Harrington noted "the space requirements, to me personally are important in the rural district" and pointed out the existence of water sheds, flood control and high value wildlife habitats.

The discussion that followed included creating smaller lots (as per Ms. Vann "smaller lots, smaller infrastructure") buffering and screening (as per Mr. Weeks "you create a cluster development of 25 apartments and you may find it is not something the neighbors are invested in, someone may mind") and the Conservation Commission's reaction to the draft ordinance (per Chair Harrington ("the reaction from the ConCom is a great first step)."

The members took a brief look at what some of the neighboring towns were doing. They went on to discuss a 50% maximum open space as a starting point for earning bonus density points. They also considered the steep slope, wetlands and other natural resources that were deemed undevelopable. At one point the members discussed the approval for six duplexes to be located at

the rear of the Stone Barn on Old Street Road and questioned the definition of duplex and whether or not the approval for detached duplexes was valid in that district. A short discussion about the dimensional requirements for zoning districts followed with Ms. Von Mertens interjecting “that is a slippery slope.”

Sharon Monahan introduced herself as a Wetland Scientist as well as a member of the ZBA. She noted that corridors were important. “I encourage them” she said adding “we don’t need just a lot of open space, we need two areas of open space with corridors connecting them. The corridor thing is really important.” Ms. Miller asked for a definition of a corridor with Ms. Monahan replying “it is a travel width of no specific feet but usually 50 or so feet.” She gave the example of a quarter lot (like her home) that while in the town center, has a forested area with wildlife. “A corridor allows a travel strip to get from one place to another” she said.

Mr. Weeks noted the Board had been through a number of drafts. “I would like to get back to why we are doing this to begin with” he said and asked “are we trying to make it more attractive to do this?” Ms. Vann replied “we are trying to have a developer do the right thing and end up with a density bonus with smaller lots and smaller infrastructure.” She “right now if I were to use the OSRD I would be giving up more than if I used a conventional subdivision.” Chair Harrington agreed noting “it has been used about three times in the last decade, it is not doing anything. If we have it we have to make it work.” Mr. Clark interjected “if you give me another house (from density points) I’ll put them on smaller lots.” Ms. Van concluded by noting “so we want to encourage doing the right thing and earn density points doing it. We get smaller lots and we are building less road which is God-awful expensive.”

Ms. Von Mertens said “you make me smile” adding “you are discussing all the options, the more informed you are, the more informed your decision will be.” She noted the exercises the Board had participated in pointed out “the value of sitting down with the land owner and assessing their needs, your needs and the Town’s needs.”

Chair Harrington noted he would get together with Ms. Ogilvie to review the changes, send it out to the members “and then come back at the end of the month to discuss it.”

#### Review of Minutes

See motion at start of meeting

#### Other Business

Ms. Ogilvie noted two chapters for the Master Plan were ready for public hearing. “They are *Population & Housing* and *Municipal Facilities*” she said adding “there is no emergency with them so they could wait until August.” Ms. Vann interjected “I think this is more important and we should dedicate the 29<sup>th</sup> to just the Open Space Ordinance.” Chair Harrington agreed and noted “let’s start at 5:30 (p.m.) again.” He then reiterated he hope to get a new draft out to the members by July 22<sup>nd</sup> and reminded the members not to communicate via e-mail with each other. Ms. Von Mertens told the Chairman she would have four Conservation Commission members attend including herself, John Patterson , Joann Carr “and a fourth person.”

Ms. Vann concluded “I feel we have come a long way” with Chair Harrington thanking the staff for their hard work. “Be ready on the 29<sup>th</sup>” he said.

The meeting adjourned at 7:55 p.m.

Respectfully submitted,

Laura Norton  
Administrative Assistant