

**PLANNING BOARD
TOWN OF PETERBOROUGH, New Hampshire
Minutes of March 10, 2014**

Members Present: Chair Ivy Vann, Tom Weeks, Alan Zeller, Jerry Galus and Rick Clark

Staff Present: Peter Throop, Director and Laura Norton, Office of Community Development

Chair Vann called to order at 6:33 p.m. She introduced herself and the members and staff. She announced the first item on the agenda was three final public hearings.

Public Hearings on Citizen Petitions to amend the Zoning Ordinance:

Voluntary Innovative Subdivision Design, vote to support or not support. Chair Vann noted “the difference here is that the ordinance as written is required in the Rural District and this petition makes its use optional.” She looked to the audience and asked “does anyone wish to speak to this?” Jim Stewart introduced himself and began with “I’ll start.”

Mr. Stewart told the Board he felt the ordinance as written afforded exemptions “not sufficient enough to not deprive the property owner of their rights” and that the Town of Peterborough should give the voters a choice as to whether this ordinance should be voluntary or mandatory. Chair Vann reminded everyone that this hearing was not a forum to discuss the merits of the ordinance and asked if anyone else would like to speak. Loretta Laurenitis introduced herself as a supporter of a voluntary ordinance. She also asked since Chair Vann had recused herself in an earlier meeting on this subject why she was Chairing this public hearing. “Point of order” she said.

Mr. Throop explained that Chair Vann had recused in an earlier meeting as she thought the ordinance may be applicable to her own personal property in town. “It does not apply to her property” he said so Ms. Vann felt she could resume her duties as Chairman. Ms. Laurenitis replied “OK, I just wondered.”

With no other comments from the audience Chair Vann closed the public hearing. She briefly reviewed the original vote for the ordinance and urged the Board to maintain their position on the ordinance being mandatory. "It is confusing, logically difficult, a legal nightmare" she said adding "it will be on the ballot and the voters will tell us what they want." She went on to say "I would ask the Board to think hard on this. At this juncture we are handing it over to the voters. We have said we support (mandatory use) I do not want to muddy the waters by supporting voluntary use now."

Mr. Clark interjected "I think it should be voluntary and we should support it." Chair Vann replied "it will be on the ballot, you can vote for what you want" adding "we made a decision, albeit not a unanimous one, to have the ordinance mandatory. To support voluntary use now is confusing." Mr. Zeller agreed noting "we made a choice."

A motion was made/seconded (Zeller/Galus) not to support this Citizen's Petition on the ballot with Chair Vann, Mr. Zeller and Mr. Galus in favor and Mr. Weeks and Mr. Clark opposed.

Agriculture Zoning Change, vote to support or not support.

Chair Vann briefly described the petition "as written" would add an allowed Conditional Use approval to the Agricultural Business Enterprise Zone. She noted activities and events such as foliage tours, farm to table cafes, short term lodging and weddings and receptions as examples.

Ian McSweeney from the Russell Foundation introduced himself. He noted the Russell Foundation supports land conservation and agriculture and that "this petition was put forward to expand what is allowed on farms in the agricultural zones." Mr. McSweeney went on to describe events and activities that would lend additional support to farms noting "this petition expands the farm's ability to maintain themselves as a farm business."

Debbie Kaiser introduced herself as a supporter and asked "does this pertain only to farms in the rural areas? Is it intended for properties of 50 acres or more?" adding "I would hope this pertains to future endeavors, not just existing open lands." She also asked if Mr. McSweeney would define the word "farm."

Mr. McSweeney answered with “currently it is 50 acres or more with a 100 foot setback. We are starting with farms but we are open to look at what parcels in town may be appropriate and then consider expanding on it.” He also noted “existing farms would have these rights but there is the potential to make use of other open spaces.” Ms. Kaiser asked “for CSA? (Community Supported Agriculture)” with Mr. McSweeney replying “potentially.”

Chair Vann asked where the wording came from with Mr. McSweeney noting it came from developed work in other towns zoning ordinances and in consult with attorneys. He also noted reference to Article IX *Conditional Use Permits for Uses Within the Wetland Protection Overlay Zone* in the Site Plan Review Regulations.

Chair Vann replied by noting “there are technical difficulties associated with this petition that we will get to after the rest of the audience speaks.”

Steve Lord introduced himself and spoke in support of the petition. “Goodness, we take trips to Europe every year to be able to do these types of rural activities. If it has been restricted in the past it is clearly an artifact of zoning” he said.

Francie Von Mertens introduced herself as a representative of the Conservation Commission. She noted many of the activities were fine but had concern about an event such as a wedding “on the long dead end road scenario.” A brief discussion on Conditional Use Permits followed with Chair Vann explaining the difference between a Conditional Use Permit and a Special Exception. “It is a definitive process, it is not willy-nilly” she said. Mr. Throop also added that a Conditional Use Permit if properly written can establish appropriate criteria for allowing a more intense use. “It can be an appropriate tool for uses like this” he said.

Kim Peck introduced herself as a supporter of the petition. “It is important for farms to diversify to further use their land to gain income and expand their markets” she said.

Rosalyn's Matthew Gifford introduced himself and noted “I would like to go on record as a supporter” adding “this change would really benefit us.” Ms. Peck spoke again about weddings on farms being beautiful. “The more economy we can bring to town the more dollars will stay in Peterborough” she said.

Keri Dumont introduced herself as a supporter who hoped one day to benefit from the ordinance with a farm to table restaurant. She noted a wedding she had attended at the Harris Center which would be very similar to the long dead end road scenario. She told the Board “there were about 100 people with local foods served. It was not intrusive, there were no detriments.”

Sunnyfield Farm’s Ruth Holmes introduced herself as a supporter of the petition. “From a farmer’s perspective I can tell you it is very hard to make a living as a farmer.” She went on to say that weddings would not be the objective (no farmer wants people driving over his hay field) “but there are moments in a farm’s history that \$2,000.00 for a wedding could make or break a farm. We are proud of our food and what we serve. I am totally supportive, I love it and I’d love it the town would love it too.”

Tyler Ward introduced himself as a representative of the Heritage Commission, whose job it is to identify, preserve and protect the architectural, historical, cultural and social heritage. “This is an agricultural town” he said adding “the town started that way right?” He went onto note “*eat local* is more than just a movement, it is a direction. On a personal level I totally support it.”

Sunnyfield Farm’s Dan Holmes introduced himself as a supporter. “I see it as another way to value what we do on the farm” he said. He told the Board “if we put food on a plate it has to be *our* plate. It is a good way to have people come to the farm and it would be absolutely complimentary to the town.”

A brief discussion about the definition of “agriculture” followed with Mr. McSweeney noting that definition was determined by the state. Mr. Holmes felt strongly the definition should “prevent what we don’t want and allow what we do want.”

With no additional comments from the audience Chair Vann began by noting “I think many of these uses and farm to table cafes are a really good thing and we (the Planning Board) will take this up in our work plan for 2014-2015. But as this petition is written I cannot ask the Board to support it.”

Chair Vann explained the technical difficulties with the petition, the most major being the reference to Article IX *Conditional Use Permits for Uses Within the Wetland Protection Overlay Zone* in the Site Plan Review Regulations. “You borrowed that language from criteria for uses within the Wetland Protection Overlay Zone. That procedure and criteria belong there. There is nothing currently listed in the regulations for these types of uses” she said adding “you can’t just lift wetland language. It is a complicated legal process and I am sorry, I am really sorry.”

Chair Vann went on to say “and another thing is we don’t have an Agricultural Business Enterprise Zone.” She recited many of the districts in town “but we don’t have that” she said adding “and we can only apply changes in established zones. Changes cannot be administered to a zone that does not exist.” Chair Vann concluded by noting “these are clerical problems, not spirit problems. We will take this up in our work plan.” Mr. Weeks noted some technical and format issues as well. He suggested they further elaborate on retail and also when land is under a person’s management versus ownership. “And define Table Café” he said. Chair Vann interjected “again there are technical issues.” Ms. Holmes asked if the language could be changed at Town Meeting with Chair Vann replying “no, sorry these go straight to ballot” adding “we will work on this and pass something we can really support and will really work for you.” Mr. Weeks noted “it is too bad these things did not get caught earlier.”

A motion was made/seconded (Galus/Zeller) not to support this Citizen’s Petition on the ballot with all in favor but Mr. Clark who abstained.

Rezoning in Monadnock Community Health Care District, vote to support or not support.

Chair Vann gave a brief explanation of the Hospital’s acquisition of a lot that they would like to incorporate into their District. “I don’t see a reason why not, it is adjacent and it is a logical expansion of the Health Care District” she said. Mr. Clark questioned the requirement for a minimum lot size of 25 acres. A brief discussion followed with Mr. Clark unhappy with the explanation that the land was contiguous so it was allowable. Mr. Clark noted it was a monopolization.

A motion was made/seconded (Weeks/Zeller) to support this Citizen’s Petition on the ballot with all in favor but Mr. Clark and Ms. Cass who were opposed.

Andy Peterson interjected “point of order. Do you put the vote (who for /who opposed) on the ballot?” Chair Vann replied “no, just whether or not the Planning Board support or does not support the petition.” Mr. Peterson relied “I would recommend that the planning Board do that in the future.”

Public Hearing on Planning Board Proposed Amendments to the Zoning Ordinance:

Shoreland Conservation Zone

Chair Vann noted these two proposals had been discussed thoroughly at the hearing in February and the ordinances now reflect modifications proposed and approved at that hearing. Seeing no one from the public wanting to speak, Chair Vann called for a motion. A motion was made/seconded (Zeller/Galus) to move the Shoreland Conservation Zone as written to ballot with all in favor.

Wetland Protection Overlay Zone

“As with the previous amendment this is the same stormwater management clarification” said Chair Vann. Seeing no one from the public wanting to speak, Chair Vann called for a motion. A motion was made/seconded (Weeks/Clark) to move the Wetland Protection Overlay Zone to ballot with all in favor.

Approval of Final Form of Ballot for Amendments to the Zoning Ordinance:

A motion was made/seconded (Clark/Zeller) to adopt the final Ballot as written with all in favor.

Subdivision and Conditional Use Permit request for 161 Wilton Road

Chair Vann noted “this is an application for subdivision of a property at 161 Wilton Road, located in the General Residence District. The effect of the subdivision is to re-subdivide a previously approved 52 unit condominium development that was not constructed and to create two new parcels, a 6.59 acre parcel and a 6.91 acre parcel, a right of way for a 466 foot long public road for access.” It was noted that the development included easements to accommodate a sewer pump station and drainage from the lots. The application also requests a Conditional Use Permit for encroachment into the Wetlands Protection Overlay District.

Chris Nadeau of Nobis Engineering introduced himself and briefly reviewed the project. Using a graphic he pointed out the 330 feet of public road leading to a hammerhead and then breaking off to the condominium project and the church driveway. He noted the frontage (459 feet for the church, 350 for the condos), a 24-foot wide street with curbs and some of the improvement planned for the entrance at Route 101 (widen westbound lane up to 9 feet and taper it to extend to the shoulder to allow passing as well as some widening on the east side of the highway). He pointed out stormwater ponds, catch basins and treatment swale, underground electric, sewage pump station and the location of a new fire hydrant. He also briefly spoke about the easements for future sewer connection to the east concluding with “that is about it.”

When Chair Vann asked about realignment of the hammerhead Mr. Throop interjected that the plan did not reflect the Department of Public Works review and comments. Ms. Vann noted the report from the Fire Chief and asked “what about the erosion and sediment control design for the new road and the associated drainage system? We will need those.” Chair Vann also looked at Mr. Nadeau and said “I see a 6-foot chain link fence. I would request you not do that” adding “I am disappointed to *not* see a lot of ‘low impact design’ on this project.” Mr. Weeks noted the lots needed to be identified with map and lot numbers and utilities needed to be added to the plan. When the electrical utilities were thought to be missing Mr. Nadeau explained it was there under “UGE” (underground electric).

A brief discussion about the road and its width and components (curbs, shoulders) followed. Chair Vann noted “in general we do not favor a road that wide.” Mr. Weeks noted a street light would be required at the entrance on Route 101. “That is code not policy” he said.

Chair Vann noted a Performance Guarantee was needed and asked if Mr. Nadeau if they had applied for an Alteration of Terrain permit from the state. Mr. Nadeau replied they had. Chair Vann also noted a statement from the Conservation Commission was coming and then asked about the location of the mailboxes.

Robert Saunders of Nobis Engineering noted that particular location was due to a US Postal Service Policy that their trucks will not back up. “It is to accommodate that policy” he said with Mr. Throop adding and we still need to hear from the DPW about snow plowing and where they are going to put the snow.” Mr. Weeks asked about hooded outlets with Mr. Throop replying “I brought that up, Rodney is aware of it.” Chair Vann also noted the Board would like to see some trees on the public road.

A motion was made/seconded (Weeks/Zeller) to accept the application as substantially complete and move forward with all in favor.

Chair Vann opened the hearing to the public. There were no questions. Mr. Throop recommended the Board continue the application while awaiting review of the missing components to the April meeting. He specifically noted the erosion and drainage plan “which is due to be reviewed by a third party by March 21st.”

A motion was made/seconded (Weeks/Zeller) to continue the hearing to the time and date certain of April 14, 2014 at 6:30 p.m. with all in favor.

Site Plan Review and Conditional Use Permit request or Divine Mercy Church

Chair Vann began with asking the Board if they felt the application was substantially complete. The Board agreed it was and a motion was made/seconded (Weeks/Zeller) to accept the application as substantially complete with all in favor’

Chair Vann went on to note “with the application deemed complete we can continue with the public hearing on the Site Plan Review and Conditional Use Permit request.” She looked to the church representatives and said “please proceed.”

Project Engineer Chris Nadeau of Nobis Engineering introduced himself as well as Jonathan Halle of Warren Street Architects, Inc. and Father Jerry Belanger of Divine Mercy Parish. “We have been here twice now and made modifications as requested” he said adding “but this is the official public hearing so we will review it once again.”

Mr. Nadeau reviewed the facts of the plan (a 13,000 square foot building on an approximately 6 acre parcel with 117 parking spaces with the potential for 34 more if needed in the future, accessed off a public road to a drop-off area in the front of the church.) He pointed out the handicapped parking spaces (more than required by code to meet the church’s needs) and that the facility would be served by town water and sewer services. He also pointed out the addition of a fire hydrant per the Fire Department, underground electrical service for the highway and a gravity to pump station sewer system.

Mr. Nadeau briefly described the stormwater management plan as well as the landscaping and photometric plan noting “that is about it.” In conclusion and for the record he introduced Paul Harrington, from Manchester who reports to the Bishop on all real estate matters for the Dioceses. He then asked Father Belanger to speak briefly on the history of the church’s need for a new parish and Jonathan Halle to speak briefly about the architecture of the building.

Monsignor Belanger introduced himself and gave a summary of the church which merged with St. Dennis Parish in Harrisville, St. Patrick’s in Bennington and St.

Peter's in Peterborough in 2006. "We have 830 families" he said adding "and we are seeking town approval for a larger facility to accommodate our larger family and those with disabilities."

Jonathan Halle introduced himself and briefly reviewed the architecture of the building. He also reiterated that the presentation had been done in full, that this review was for the *formal* public hearing and that nothing substantially had changed since the last presentation. "For the record" he said "the building is 13,000 square feet, clapboarded with black shingles and some brick components to it." He presented several anterior and posterior elevations of the building. "Nothing has really changed" he said. He concluded by noting the Parish would be going back to the ZBA for signage on Route 101.

With no questions from the audience Chair Vann turned to the Board and asked for questions and comments. Knowing Chair Vann had a list of things to discuss Mr. Weeks noted he would "chime in" when he had a question. Before they began Mr. Halle respectfully noted the anxiousness of the Diocese to get started. He told the Board "I know you cannot approve this tonight but if we can get a sense of how you are feeling to take back to the Bishop in Manchester that would be very helpful." Citing the potential for more hearings and a late construction season he said "we need to get a real read on where we are." Chair Vann acknowledged the request and noted it would be addressed after concerns and questions by the Board.

With regards to the drainage ponds Chair Vann reiterated "I see the (chain link) fences again and I am not crazy about it" she said. A brief discussion of the criteria for a Conditional Use Permit followed as well as plans for grading and the clean-up of a large loam pile. Mr. Weeks spoke briefly on the Board's authority to grant relief for streets, roads and access ways. The Board also briefly reviewed the silt fencing, hood basins, parking and lighting. Further discussion about the drainage plan's catch basins and 70-foot grass trap barrier also followed with Chair Vann noting "the drainage system must be finalized as part of the approval and will have to meet all town codes." Mr. Weeks noted the lighting plan showed an average of 1.23 foot candles and noted "the code is not to exceed 1 foot candle." After a brief discussion about LED lighting and the height and spacing of light poles Mr. Nadeau noted "I guess we will have to go back to the lighting consultant." Chair Vann interjected "unless you want to go to the ZBA" with Mr. Nadeau replying "no thank you."

Chair Vann also noted the screening for car lights did not appear to be on the church's property. She noted the Fire Department's requirement for a fire hydrant and asked whether or not the church had applied for an Alteration of Terrain permit from the State. We will need as built surveys and a delineation of the wetlands" she said adding "clearly we cannot approve the application tonight."

Mr. Throop interjected the Conservation Commission was involved and working on a report for the Board. Chair Vann thanked the applicants and asked the members for a sense of the Board. The members agreed while there was still work to do the application was not an unreasonable request and they were ready to move forward with it.

A motion was made/seconded (Weeks/Zeller) to table the application so that staff concerns could be addressed to a date and time certain of April 14, 2014 at 6:30 p.m. with all in favor but Mr. Clark who was opposed.

Immediately after the vote Mr. Clark voiced his concern about how “things always seem to drag out” adding “people come here to get a decision and we table their application and tell them next time. That is my feeling” he said.

Chair Vann replied “you have legitimate concerns but we cannot make a decision without the correct information.” She concluded by noting “and they did get the indication they needed to go forward.”

Paul Harrington stood and introduced himself as the Bishop’s representative in the real estate department. He personally thanked the members for their time and attention to their request. “You have a tedious job with everything you have to do.” He said. He noted the Church would fully comply with the Board’s requirements. He looked to Mr. Clark and said “I understand your frustration. That is part of being on the Board, but thank you for your assurance tonight.” Chair Vann replied “you are welcome, it is a complicated project and a tough site.”

Updates from Board Members serving on other Committees

Chair Vann gave a brief update of the Vision Forum being held on April 11 and 12th. Mr. Throop encouraged all members to save the date.

Other Business:

None

Next Meeting:

April 14, 2014 at 6:30 p.m.

The meeting adjourned at 8:38 p.m.

Respectfully submitted,

Laura Norton

Administrative Assistant