

## PLANNING BOARD

### TOWN OF PETERBOROUGH, NH

Minutes of March 21, 2016

**Members Present:** Chair Ivy Vann, Alan Zeller, Ed Juengst, Rich Clark and Bob Holt

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

Chair Vann called the Workshop to order at 6:30 p.m. She noted there were no Minutes to be approved and that there were two items on the agenda for the evening. She then appointed Mr. Holt to sit and explained the process of the hearing (review amendment, open hearing to public for input, close public session, deliberate and make a decision whether or not to move the amendment to ballot or hold for another year). Chair Vann noted a decision on the amendments must be made this evening. “We do not have enough time for another public hearing” she said.

*Amend the definition of Bed and Breakfast and allow the use by Conditional Use Permit in the Rural District, Family District, and General Residence District.*

“This is the second public hearing on the proposed Bed & Breakfast amendment” said Chair Vann adding “and you can see we took what was said at the last public hearing and amended it accordingly.” She read the amended definition as well as the allowance of Bed & Breakfasts in the Family, General Residence and Rural Districts (subject to Conditional Use Permit) to expand housing opportunities for lodging establishments in Peterborough.

Chair Vann noted “one change” adding “we are deleting the Conditional Use Permit Criteria for Bed & Breakfast establishments associated with the Agricultural Business Enterprise Uses for Article IX of the Planning Board Site Plan Regulations.”

Chair Vann briefly reviewed the amendments *criteria* of compatibility, aesthetic character and nuisances as well as the *standards* to be applied to Bed & Breakfast establishments. She noted one significant change of allowing up to twelve guest bedrooms noting “we heard last time about the break-even point and that it was hard to make a living with fewer than ten rooms.” Mr. Throop reminded the members that while the amendment allows up to twelve rooms “the Planning

Board does have the authority to limit the number of guest bedrooms based on the consideration of the neighborhood characteristics, the site characteristics and design, and the criteria established and set forth.” Chair Vann agreed adding “it is up to twelve guest rooms, twelve is not an automatic number.” She then opened the hearing to the public.

Paula Fox introduced herself as the owner of Little River Bed & Breakfast. She noted RSA 245-8 1.b.i. (the Agricultural Business Enterprise Uses on a Commercial Farm) and suggested striking Bed & Breakfast Establishment from the RSA “and just note up to 6 guest bedrooms are allowed.” A brief discussion about guest bedrooms for farm-related activity (day-long trips, seasonal workers, farm stays) all of which are subservient to the farm operations, more than breakfast meals on the farm and where the state is going with several agricultural bills followed. Mr. Throop noted “really the only difference is three meals a day are allowed with up to six guest bedrooms.” Loretta Laurenitis introduced herself and suggested “it” (guest bedrooms in the Agricultural Business Enterprise District) should have a name. “Like farm stay” she said adding “and it does not say anything about owner-occupied like the Bed & Breakfast establishments.” A brief discussion about the definition of Bed & Breakfast establishments followed with Mr. Throop noting “in this case farm stays consider taking an out building and converting it to a bunkhouse, it is not part of a single-family home. Chair Vann added “and remember it is not the primary business so that limits what can be set which is different from regular Bed & Breakfast standards.”

Ms. Laurenitis voiced her concern that Bed & Breakfast establishments would now be allowed in every district in town. “I would prefer keeping them the same and not include them in every district in town, especially the Family District which is the most restrictive district in town and meant to be for *family* not business” she said. She went on to say she felt property values may be affected and noted enacting clauses, noise and pollution were factors. Ms. Laurenitis went on to say “we heard at the last public hearing that the Bed & Breakfast establishment we have are never at capacity except maybe in the fall and now we are opening up the opportunity for more establishments to compete with them? I don’t believe the need has been demonstrated.” She suggested other towns have limits of five to six guest bedrooms and asked the members consider the Ordinance that Portsmouth, New Hampshire has on its books. “Their limit is five and *not* located in the residential district” she said. Ms. Fox interjected that the Benjamin Prescott Inn in Jaffrey had ten guest bedrooms.

Ms. Laurenitis asked for clarification on the reference to RSA 233-55. “What does that refer to?” she asked. Mr. Throop replied “233-55 is what is created with this ordinance” with Chair Vann adding “it is not in the regulations today, it is

new, it *will* be new section if this passes.” Ms. Laurenitis then asked for clarification on RSA 233-51 Section 6C (termination and transferability, specifically termination after twelve months of nonuse of an approved Agricultural Business Enterprise use). She asked if this applied to agricultural uses only with Mr. Throop replying “it applies to all Conditional Use Permits” adding “the intent is not specific to the Agricultural Business Enterprise District.”

Francie Von Mertens introduced herself and told the member she had been at the February 29<sup>th</sup> public hearing when double occupancy had been discussed. “I was surprised to see twelve guest bedrooms” she said. She also asked about the process and asked for confirmation that the abutters were indeed notified of applications for Conditional Use Permits (they are). She noted traffic concerns and concluded by noting “I just think it is hard (once you have conditions) it is hard to say no. I want to have faith in the Board but in my old-fashioned brain says a Bed & Breakfast is not a hotel.”

Chair Vann assured that the criteria was specific and the abutters were notified via certified mail when an application comes in. “I believe we were convinced by those who spoke at the last public hearing that it would be good for some establishments to be larger subject to their location and abutters” she said adding “and this does not make any piece of property a twelve-room establishment.” She went on to note that in establishing appropriate conditions of approval the Planning Board has the authority to limit the number of guest bedrooms based on consideration of the neighborhood characteristics, site characteristics and design as well as the criteria set forth in the ordinance.

Ms. Laurenitis asked about site design, size and scale, aesthetics and traffic safety with Chair Vann replying “I believe Compatibility covers that.” Ms. Von Mertens noted she lived close to Applegate Bed & Breakfast “which I don’t believe is there anymore but there were not twelve rooms so this was a bit of a shock” adding “but I am getting over it.”

With no other questions or comments from the audience Chair Vann closed the public hearing. She looked about the table and asked “what is our sense?”

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

Mr. Throop pointed out refining the language of the amendment descriptions (defined in a shaded gray box at the beginning of each amendment) and that he would bring that update to their next meeting. “It is a list of what we are doing, to clearly get as much information out as possible” he said. Ms. Von Mertens

suggested the information include information on what is *now* and what is *proposed*.

Chair Vann continued with the remaining eight “housekeeping” amendments:

*Amend Section 245-2 “Applicability” to make it clear that if any provision of the Zoning Ordinance is declared to be invalid by a final court decision, the validity of the Ordinance as a whole shall not be affected.*

“This is about severability” said Mr. Throop adding “if a provision of an ordinance be declared invalid it will not affect the validity of the ordinance as a whole.”

*Amend Section 245-4 “Definitions” to add definitions of “Duplex”, “Impervious Cover”, and “Subdivision.”*

Chair Vann noted clarification of the definitions was important noting “gravel is not always pervious (compressed gravel may be impervious) much like a roof is not necessarily impervious (a green roof absorbing the storm water is pervious.) Mr. Throop noted “Duplex” is now defined as a two-family dwelling and that while there was a definition of “subdivision” in Chapter 237 *Subdivision Regulations* “there is not one in the zoning ordinance.”

*Amend Section 245-5 “Districts Established” to clarify that condominium developments and conversions are required to demonstrate compliance with the zoning ordinance and are subject to applicable Subdivision and Site Plan Regulations and reviews.*

Mr. Throop noted this amendment would require condominium and condominium conversion to meet the zoning requirements of the district in which they are located.

*Amend Section 245-6 “Family District” to clarify that minimum lot size standards also apply to conversion of an existing single family home to a two family home.*

“This has to do with the minimum lot size in the Family District” with Mr. Throop adding “the ordinance talks about *new* construction requirements of 40,000 square feet for a single-family and 50,000 square feet for a two-family structure but it does not address conversion so this is really a matter of clarifying the language.”

*Amend Section 245-14A “Ground Water Protection Overlay District” to clarify definition of impervious surface.*

“This just lends clarification to the definition” said Chair Vann.

*Amend Section 245-15K “Wetlands Protection Overlay District” to add “Restoration of a previously disturbed area within the District” as a permitted use subject to Conditional Use Permit.*

Mr. Throop noted “the ordinance is currently silent on restoration” with Chair Vann adding “so you have to comply with the state regulations on this with a plan prepared by a NH certified Wetland Scientist and approved by NH Department of Environmental Services.” Ms. Von Mertens interjected “it allows you to get the trash out of the buffer and then do the restoration.” Mr. Throop noted while a certified wetland scientist is necessary for the wetlands a NRCS Conservationist or other qualified individual can approve a buffer plan. He noted “and we would like to see a plan so it is by Conditional Use Permit and not by right. We also want the Conservation Commission to see it.”

*Amend Section 245-24.3.D.1.e “Wireless Communication Regulations” to correct RSA citation for regional notification requirements.*

Chair Vann explained “the citation is wrong and we need to fix it.”

*Amend Section 245-33.D.5 “Lighting and Glare” to add “LED” as an acceptable light source.*

Chair Vann noted “this adds LED lighting as an acceptable light source. That is the only change.”

Ms. Laurenits asked for clarification of Amendment I (Section 245-2 *Applicability*). “Why is this being added?” she asked adding “did something happen?” Mr. Throop replied “not in Peterborough but this standard should be there.”

“That is it” said Chair Vann and adding she would entertain a motion to move the housekeeping amendments to Public Hearing.

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

Mr. Throop again noted he was working on shortening up and streamlining the amendment descriptions to make them more informative. Chair Vann suggested adding a line to the Bed & Breakfast amendment that spelled out *up to but no more than* twelve guest bedrooms. We are really going from no limit to twelve” she said.

Ms. Fox pointed out the six guest room allowed in the Agricultural Business Enterprise District noting that while this district is staying at six rooms “it can be seen as an increase in guest rooms. It is how you interpret it, there are two ways to look at it” she said. Chair Vann replied “OK we set the standard at no more than twelve bedrooms depending on the neighborhood.” She looked around and asked “anything else? Now is your chance.”

Mr. Throop suggested just one meeting in April to discuss Open Space Residential Development and Subdivision Regulations. Chair Vann asked she be reminded about driveways and grades at that meeting. Mr. Throop also noted the office was getting busy with “six or seven new opportunities coming through the door in the last week alone.”

In closing Chair Vann told the members the proposal for the cell tower off Route 101 had been withdrawn. “They have decided to go elsewhere” she said adding “they may come back but for the moment that location is not going to work for them.” Chair Vann also noted that she, Mr. Throop and retired OCD Director Carol Ogilvie were near completion of the Technical Assistance Grant Plan New Hampshire. “We are working on it” she said.

**Next Meeting:** April 11, 2016 at 6:30 p.m.

The meeting adjourned at 7:10 p.m.

Respectfully submitted,

Laura Norton

Administrative Assistant