

PLANNING BOARD
TOWN OF PETERBOROUGH, New Hampshire
Notes of April 21, 2014

Members Present: Barbara Miller, Tom Weeks, and Alan Zeller. Audrey Cass arrived later.

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

Vice Chair Weeks opened the session. “My name is Tom Weeks, I am the Vice Chairman of the Board and I would like to welcome you to this public information session” he said adding “and now I would like to turn the meeting over to Pete Throop.”

Peter Throop introduced himself as well as retired OCD Director Carol Ogilvie and Consultant Caroline Radisch. He briefly reviewed the Town’s Charter that establishes the town government as a hybrid between a traditional town meeting and an SB2. He noted the new practice by the Planning Board of working to get through the planning of the amendments before the Holidays.

“We never know how amendments there are and what the changes will be so we don’t know how many public hearings we will need” he said. Mr. Throop added “we did not want to rush to the deadline for the final postings. We have a number of complex amendments we will hear about tonight and we will go through each one of them for you.”

Mr. Throop once again noted the importance of doing the work in advance. He said “a lot of hard work has gone into the ordinances and I am thankful for a dedicated Planning Board. Our objective tonight is to make sure everyone understands what is before the voters.” He also told the audience that hard copies of the complete ballot were available for review and to help themselves. “All the language is in there.

Everything that was deleted or added” concluding “there are 11 amendments and 3 citizen petitions.”

Mr. Throop then began a Powerpoint presentation entitled *Peterborough Planning Board Public Information – An Overview of the Proposed 2014 Amendments to the Zoning Ordinance*. He asked the audience sit back and listen. “Digest what you can and then we will answer questions” adding “the ballot is final and has been posted so there will be no changes to these amendments.” Mr. Throop concluded by noting “this is not an appropriate venue for advocacy and personal agendas, it is for those who want to get up to speed for when they step into the voting booth on May 13.”

Amendment A – Innovative Subdivision Design to replace the Open Space Residential Development to allow flexibility in subdivision design and promote the preservation of natural and cultural resources while facilitating the use of sustainable development practices.

Ms. Ogilvie stood and gave a brief explanation of the history of the amendment noting “this has been a long-standing attempt by the Planning Board to re-write the Open Space ordinance (known initially as the Cluster ordinance). “This has been on the Planning Board Work Plan for a while” she said.

Mr. Throop continued with a review of the ordinance via a Powerpoint presentation. He reviewed the key objectives of innovative design, which is permitted in all residential zoning districts but is required for parcels of 10 acres or more the Rural District. He reviewed the purpose and authority, definitions, applicability, design criteria, general requirements, density bonuses, HOAs, application procedures and waivers. He took a moment to review primary and secondary conservation areas as well as projects that may be exempt from the ordinance. “All so the developer and the planning board can come up with the best design possible.”

A question about the fragmentation of the conservation area was raised with Mr. Throop replying “that is a good point,” He noted the consideration of undeveloped space, protected space and uses around the secondary conservation areas. “It will depend on the site and every site is different” he said.

Mr. Throop concluded by summarizing the concerns expressed during the process of the public hearings (costs, land values, public awareness and the “taking of my land” conception) and noted there was a related Petition (Amendment N) on the

Ballot. He strongly suggested the voters “vote **yes** for the Amendment they prefer and **no** for the amendment they don’t prefer “because if they both pass I believe that the second amendment (Amendment N - making the ordinance **voluntary** in the Rural District) will be adopted.”

A gentleman in the audience asked for clarification of Mr. Throop’s statement and commented “that is a very bizarre procedure. It should be the majority that is adopted.” Mr. Throop replied “there are two amendments on the ballot addressing the same ordinance” (Amendment A and Citizen’s Petition Amendment N) adding “that is why we are suggesting that voters be clear about making a choice.”

When asked about the criteria requiring variety in the design of houses in this kind of development, to avoid “cookie-cutter” developments Mr. Throop replied “there is none. We can encourage variety but we have no control.” Other questions involved minimum lot sizes and the role of the homeowners associations.

From the audience Francie Von Mertens interjected “this is can be both conventional and innovative; it will involve a real conversation between the Planning Board and the land owner to produce the best chance of a strong hybrid result between the two.” Mr. Throop agreed reiterating “yes, and this is important given that each parcel is different.” Ms. Von Mertens also noted Conditional Use Permits which “are new to the town and encourages dialogue back and forth” adding “that is why it is so important we continue to elect Planning Board members who are reasonable.”

From the audience Richard Fernald asked how many *over* 10-acre lots existed in Peterborough as well as “how many owners?” Mr. Throop replied “a lot.” Mr. Fernald asked “were those owners notified?” Mr. Throop explained the notice process and that the public hearings were noticed in the newspapers as well as town buildings such as the Town House and the Library. Steve Lord questioned the definition of Open Space and asked “does this mean there are no uses without the permission of the Planning Board?” specifically he stated the language of the definition said “the Panning Board may consider the following uses including but not limited to agriculture, forest management....etc.” adding “this means they may **not** consider it as well.” He also asked “and if the Planning Board makes that consideration must the members be conservation professionals?” He specifically noted Page 14 of the final posting which noted “the primary purpose of open space is the conservation, preservation and protection of the natural resources.” The uses

may include forestry, agriculture and passive, non-commercial recreation (provided they do not negatively impact the natural/cultural amenities that have been identified) and that all such proposed uses shall be identified in the proposed subdivision application and are required to follow best management practices as approved by the Planning Board.

In conclusion the gentleman who had earlier questioned the process of the outcome of Amendment A and Citizen's Petition Amendment N said he questioned the process noting "it is practically useless to go and vote." He pointed out an example of having 1000 *yes* and 4 *no* votes on the first amendment and 5 *yes* and 1 *no* vote of the second. "If the second amendment wins, that is not what the people (the majority) wanted" he said.

Amendment B - Traditional Neighborhood Overlay Zone to create additional housing opportunities in portions of the Family and General Residence Districts located in close proximity to the downtown. This proposal is intended to relieve pressure to subdivide in the Rural District and is considered by the Planning Board to be consistent with several major goals of the Master Plan.

Mr. Throop introduced Caroline Radisch who gave a brief summarization of what had come out of the public hearings and workshops in creating the overlay zone. She noted the purpose was to allow the infill of lots and additional residential housing in already established subdivided neighborhoods. She noted this design would be accomplished through Conditional Use Permits issued by the Planning Board "to provide a good fit with the existing neighborhood patterns." She reminded the audience that all other relevant provisions of the zoning ordinance still applied. She then briefly explained how the district boundary was identified (within the Family and General Residence Districts, on town water and sewer and within generally walkable distances from the Downtown) and the assistance they received from the Heritage Commission. She noted the criteria of 75 feet of frontage in the Family District (50 feet in the General Residence District) and a lot size of 10,000 square feet in the Family District (5000 square feet in the General Residence District).

From the audience, Bob Lambert asked about wetlands and/or steep slope with Ms. Radisch replying "those are constraints that will have to be considered." She went on to note there were 54 potential unconstrained lots and 69 constrained lots for a total of 119 estimated total lots. From the audience Andrew Dunbar asked about the

10-foot side setback and (how he felt) although addressed in public hearings was not addressed in the ordinance. "If the ordinance was shaped by the comments of the public why wasn't this changed?" he asked. He went on to note if an individual bought a house with another house 10 feet away that was one thing but noted this ordinance would allow that to potentially occur in an established neighborhood. "Someone could build a house 10 feet away from you" he said. Ms. Radisch replied "yes they could but they may not." "But they could" replied Mr. Dunbar." Another member of the audience asked Ms. Radisch about her background and her credentials to which she gave a brief summary noting she was chosen from a RFP sent forth from the Town. "Several consultants responded to the RFP and I was hired" she said. Ms. Miller interjected the monies to pay Ms. Radisch's salary were secured from a community planning grant offered by the New Hampshire Housing Finance Authority.

From the audience Richard Fernald asked about the difference between constrained and not constrained lots and where they were. He also asked about enforcement of the ordinance. Heather Peterson asked for clarification on section E. (2) reuse of existing buildings. It was noted the Demolition Delay ordinance was still in effect if a building met the criteria. It was also noted that the demolition of existing habitable dwellings for subdivision of a lot was strongly discouraged unless the applicant could demonstrate a true state of disrepair and cost-prohibitive rehabilitation or renovation to the Planning Board.

From the audience Rod Christy stood up noting his concerns. He began with listing the potential 119 homes from this ordinance along with and "43 beds at Scott Farrar, the Ivy Vann project, the soon to be vacant Catholic Church property and the Roy Vezina property "all centrally located and in walking distance to the Downtown." He noted "that is about 200 total in the same zone." He asked if there were any studies done or being anticipated by the town to consider the impacts to traffic, parking and air quality in the Downtown.

A brief discussion about the awareness of the possibilities of impacts as well as the slower incremental type of change that is expected with the ordinance. Ms. Ogilvie noted that if and when impacts were identified the Planning Board would require modifications and mitigation to address those issues. She also confirmed that the ordinance criteria included existing town water and sewer so Ivy Vann's project would not qualify. This is a long-term strategy" she said. Mr. Christy replied "if you are only going to see one or two houses being built a year that will not keep up with

the impact to the Rural Zone so this is an ineffective ordinance.” Mr. Throop redirected the conversation by thanking Mr. Christy for his thoughts “but I would like to stay focused on what the language of the ordinance says. You will be able to make your choice in the voting box.”

From the audience Sharon Monahan asked for clarification in the Procedure section noting the abutter notification listed property owners within *300 feet* of the proposed new residence. “Typical notification is of abutters to the *lot*” she said. A brief discussion followed with Ms. Ogilvie concluding “given the area we are looking at the 300 feet goes well beyond the physical abutting parcel. It is really *over* notification.” From the audience Ann Marie Irwin asked if all the ordinances that have been moved to ballot by the Planning Board had been unanimous decision. It was noted that most but not all were unanimous and that those that were not unanimous did have the majority for support.

Ordinance C – Home-Based Business to replace §245-24 with added/amended related definition to reorganize and update the existing ordinance to better reflect how people work from their homes and ensure reasonable opportunity for town residents to engage in home-based employment. This amendment adds a condition use permit process for Professional Uses and Home Industries.

Amendment D – Enlargement, Change or Replacement of Nonconforming Buildings to allow reasonable increase in building height for that portion of the building that is conforming.

Amendment E – Business/Industrial District to amend §245-10.2 to add General Office, Research and Development Facilities, Professional & Personal Services and certain Health Care Facilities, and to delete Assisted Living as a permitted use, as well as amend various definitions for clarity.

Amendment F – Workforce Housing to bring the zoning ordinance into compliance with state law by permitting workforce housing in all residential districts. This amendment would also allow the Planning Board to issue Conditional Use Permits for innovative designs that would allow no more than one multi-family unit per lot in the Rural District provided the design is compatible to the neighborhood.

From the audience Heather Peterson questioned about the existing subsidized housing and affordable rentals in the area. “What is our fair share?” she asked with Mr. Throop replying “It’s not clear. Perhaps that will be decided in the courts at some point.” He went on to note he had done an analysis of the available housing in town and said “we appear to be over the necessity but to be prudent and in compliance with the law we can now say we have addressed this matter.”

Amendment G – Definitions adding new and modifying existing definitions to bring greater clarity to the zoning ordinances.

Amendment H – Shoreland Conservation Zone amended to clarify permitted forestry uses and add a citation for forestry Best Management Practices, add stormwater management systems related to permitted crossings (including utility right of ways and easements), required Conservation commission input and meet all minimum protection standards as set forth in state shoreland permits.

Amendment I - Wetland Protection Overlay Zone to update the forestry Best Management Practice citation, include stormwater management systems related to permitted crossing that are the subject of the request for a Conditional Use Permit, and to clarify the granting of said permits for such crossings avoid impacts to the maximum extent possible.

Amendment J – Off Street Parking to amend the off street parking (Table 1, schedule of minimum parking requirements to 1 space per unit for accessory housing and 1 space regardless of floor area in Home Occupations.

Amendment K - Enlargement, Change or Replacement of Nonconforming Uses to provide the Code Officer with guidance for making an administrative decision under this this paragraph in the ordinance.

Citizen Petition Amendment L to re-zone a parcel of land to §245-9.2 Monadnock Community Healthcare District. Parcel No. U007-007-000 located at 453 Old Street Road from Family/Rural Conservation District to the Healthcare District. Mr. Throop noted this Petition was supported by the Planning Board.

Citizen Petition Amendment M to see if the Town would add an allowed Conditional Use Permit approval to the Agricultural Business Enterprise Zone. This would allow diversified agricultural business opportunities including retail, farm to table cafes, social events (farm dinners, weddings, foliage tours, seasonal activities and other farm events). Mr. Throop reported several technical issues with this petition. He noted that while the Planning Board was very much in favor of the concept and was committed to taking this up in their work plan for next year, “they did not support it” adding “it cannot be applied or enforced as the zoning district does not exist.”

Citizen Petition Amendment N to make **Amendment A the Innovative Subdivision Design** voluntary. Mr. Throop reiterated the only change was that this amendment makes the ordinance’s application in the Rural District voluntary, not required as is set out in the Planning Board’s proposed amendment. He also said that given that this proposal is voluntary, the exemptions have been removed as they are not needed. He cautioned the members of the audience to be very clear on how they voted noting “vote *yes* for the one you want and *no* for the other.”

With all of the amendments and petitions having been reviewed Mr. Throop thanked the audience for attending and asked if there were any other questions. From the audience a woman asked why Assisted Living had been taken out of the Business/Industrial District. Mr. Throop replied the Planning Board did not feel assisted living was an appropriate use and that there were several other districts where it was a permitted use. Another question followed-up on the Amendment A and Citizen’s Petition N dilemma discussed earlier. Mr. Throop noted he would continue to research the matter. Ms. Von Mertens asked if petitions were traditionally located at the end of the ballot with Ms. Miller interjected “it is my understanding that they are.” Mr. Throop noted he would also check on that item.

The meeting adjourned at 8:32 p.m.

Next Meeting:

May 12, 2014 at 6:30 p.m.

Respectfully submitted,

Laura Norton

Administrative Assistant