

PLANNING BOARD
TOWN OF PETERBOPROUGH, NH

Minutes of November 13, 2018

Members Present: Bob Holt, Ivy Vann, Tyler Ward, Sarah Steinberg Heller, Joe Hanlon, Alan Zeller, and Dario Carrara

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

Minutes:

A motion was made/seconded (Vann/Ward) to approve the Minutes of October 8, 2018 and October 15, 2018 as written with all in favor. Mr. Galus noted he was not present for the October 15th meeting and abstained from the vote on that meeting.

Continued Public Hearing: Four lot Subdivision and Conditional Use Permit of a .499-acre parcel owned by GATO Properties, LLC located in the General Residence Zoning District and Traditional Neighborhood Overlay Zone I, Parcel No. U024-021-000, located at 59 Union Street. The applicant has requested that the public hearing on this project be continued to the Board's meeting on December 17, 2018.

A motion was made/seconded (Hanlon/Vann) to continue the public hearing to a date and time certain of December 17, 2018 at 6:30 p.m. with all in favor.

Public Hearing: Two Lot Subdivision of a 13.4-acre parcel owned by Elias E. Olmeta and Carmen L. Blohm Living Trust, located at 110 Hunt Road, Parcel No. U011-011-000 using Zoning Ordinance Section 245-26 "Open Space Residential Subdivision". This parcel is partially located in the Family Zoning District and partially located in the Rural Zoning District. The Applicant proposes to subdivide the property so that an existing barn(s) can be converted into a single-family home on a separate lot. The two lots will be accessed from a shared driveway.

Mr. Throop explained there would not be a vote tonight as the applicant had amended their plan to include another parcel that adds four additional abutters who must be notified of the public hearing. Mr. Throop added the application would be continued to December 17, 2018 because of that amendment and *all* the abutters

would be re-notified with the four new abutters receiving a copy of the Minutes from this meeting attached for their review of the testimony.

Mr. Hanlon questioned why the Board would take testimony at all with Mr. Throop citing a very full schedule for December 17th (Agrihood at Stone Barn, GATO Partners, LLC and this application). He noted the Board could schedule a meeting for December 10th “but we were hoping for just one meeting in December” he said. The members agreed to hear testimony for this case to lighten the load for the December meeting.

Mike Ploof introduced himself as a Licensed Land Surveyor from Fieldstone Land Consultants, PLLC and representative for the applicant. He told the Members the purpose of the application was to consolidate lots U011-011-000 and U008-009-000 and then subdivide the new lot into a two-lot Open Space Residential Development. Mr. Ploof reviewed the frontages and setbacks of the lots located in the Rural and Family Zoning Districts. He told the Members the applicant wanted to convert the existing barn into a single-family home on the one lot with the existing house on the other.

With no questions from the Board Chair Holt opened the hearing to the public.

Jeff Taylor introduced himself as an abutter. He pointed out the slope on the south side of the homes on Currier Avenue and noted “it is quite steep and the lower area it is relatively marshy.” Mr. Taylor also noted the main well was located on the plateau at the top of the steep slope and asked about the right-of-way for access to the parking. “Just wondering” he said. Mr. Throop pointed out the protective covenant language would be written in such a way as to require access and use by each of the respective owners. “That would also include the rights and responsibilities of the common driveway” he said.

Alan Bannister introduced himself as an abutter and asked if the main well would be maintained (it would) and if the open space would remain protected. Mr. Throop noted the protection would be in the language of the deed (which runs with the land) and enforced under town zoning.

Cornelia Taylor introduced herself as an abutter and asked about the potential of the land being sold and developed in the future. Mr. Throop noted the deed restrictions would not allow any further development on the parcels adding “the only permitted uses are agriculture, recreation and forestry.” Mr. Taylor asked if there would be any increased access for public use on the property with Mr. Throop replying, “that is up to the landowner.”

With no other questions from the audience Mr. Throop took a moment to review the Staff Report with the Board and point out what he considered to be significant concerns for them. He began with a typo on the first page, noting the side setback proposed between the two new parcels will not be 30 feet “it will be 20 feet.”

On page 2 of his report Mr. Throop referenced fencing in the southern portion of the field and told the Members “that fence was removed in late 2017.”

On Page 3 of his report listed the Open Space Residential Development (OSRD) zoning requirements. He reviewed the first two paragraphs concerning the *Purpose* of the ordinance and the *Development Design Criteria*. “this is what you must consider when voting on this application and remember you have the authority (245-26. I.3) to make modifications to the ordinance requirements” he said.

Mr. Throop went on to review *Location, Permitted Uses* and *Lot Standards*. He told them “you have the testimony on this tonight and the request for a reduction in the side setback.” He went on to say, “in making your decision on this proposal you should make a finding as to whether the Development Design Criteria and the Purpose of the ordinance have been met.”

Page 4 of the report reviewed *Tract Dimensions* to which Mr. Throop noted the presence of a shed on the northwest corner of the field. “This is an existing condition” he said but noted the Members should make a finding as to whether the presence of the shed is acceptable. Citing the *Internal Dimensions* Mr. Throop noted the existing house and barns were about 40 feet apart. He noted no new road or point of access were being requested with the applicant proposing use of the existing driveway and parking areas (using a cross access easement). He told the Board they should consider a finding that this arrangement was acceptable and consistent with the purpose and development design criteria of the ordinance. Also on Page 4 Mr. Throop reviewed the *Landscape Buffer*, pointing out the largely vegetated 75-foot buffer along the western boundary of the lot. He also pointed out the lush vegetation on the northern buffer and most of the frontage along Hunt Road and told the Board “you will need to make a determination as to whether the existing buffer vegetation is sufficient to meet the intent of the ordinance.”

Moving on to the water and septic systems it was noted each lot will have its own well and septic system. Mr. Throop pointed out the new proposed septic for U011-011-100 was located within the 75-foot tract perimeter buffer and installation of a new system in that location may require some removal of the vegetation in the buffer. He suggested that the Board should determine whether the system needed to be moved out of the buffer. Mr. Throop noted he did not think the Board would

need to require a State Septic approval as stipulated in the ordinance (consider waiving) because both the lots are over 5 acres in size with no common well and it would not be otherwise required by the State.

On Page 5 Mr. Throop reviewed the proposed open space and indicated that the ordinance typically requires the protected open space to be held in common ownership by a home owner association. In this case, because there are only two parcels, the applicant is proposing that the open space be split between two separate parcels with individual ownership. The ordinance contemplates that all owners have access to the open space and if the Board felt that was necessary, each deed could reflect that abutting landowner has the right of access. He advised the Board “you have to think about this and whether you feel it meets the spirit of the ordinance.” Mr. Throop went on to note the applicant had not provided or specified any future uses for the common open space (which needs to be permanently protected by covenants and easement that run with the land). He strongly recommended that tree stumping be prohibited hillside (noting the 35-40% slopes) and that the applicant convey what is intended for permitted uses. “All this will need to be stipulated in the deed” he said.

On the last page of his report Mr. Throop noted the OSRD review process noting while a project can be developed in phases, the subdivision of the tract must be considered for its entirety. He went on to say “this means there will be no further subdivision of the two parcels even if sufficient, accessible and developable land was available outside the protected open space. This would need to be clearly stipulated in the plan and in the deeds. He also suggested the Board may want to consider whether Accessory Dwelling Units (ADUs) would be permitted.

Mr. Hanlon looked to Mr. Throop and asked, “what is the point of open space?” Mr. Throop noted the ordinance is intended to encourage flexibility in the design of residential use and provide reasonable opportunities for housing while preserving as much land as possible by clustering the development on smaller parcels. He told the Members these developments typically have shorter roads, common utilities and preserve open and agricultural land.

Ms. Vann noted she’d made a list of Mr. Throop’s concerns for the Board to address and briefly ran through it.

A motion was made/seconded (Hanlon/Vann) to continue the hearing to a date and time certain of December 17, 2018 at 6:30 p.m. with all in favor.

Proposed Zoning Amendments for Town Meeting 2019:

Mr. Throop began by telling the Members he'd thought long and hard about an amendment to the Traditional Neighborhood Overlay Zone II (TNOZ II) "and after that review I have come to the recommendation that the Board not take that up this year." He went on to suggest they start their plan for public outreach for such an amendment and work on it throughout 2019, coming up with a new amendment for Town Meeting in 2020, giving it the time it deserves.

Mr. Throop then briefly reviewed the zoning amendment suggestions for the 2019 Town Meeting that included *Updating Special Exception Criteria* (reviewing examples of what other towns are using as the current criteria is very convoluted and tends to draw the ZBA into Site Plan Review issues) *Clarify definition of "Health Care Facility" and add definition for "Clinic"* *Clarify "Recreational Facility" use by Special Exception in Rural District* (Mr. Throop noted the adoption in 2017 of a definition for "Recreational Facility", which is allowed by special exception in the rural district, clarifying any use entailing a rifle range or shooting facility be required to be inside a building) and *Other housekeeping amendments*.

Noting she has been approached by townspeople Ms. Vann brought up the topic of Air B&Bs and asked, "in the past we agreed that renting room in a private house was not something this Board should address." She noted the requirement for a Conditional Use Permit for a Bed & Breakfast noting "but we had talked about a less complicated process if someone were just renting rooms." She went on to ask, "is that still the case or are we interested in doing something?" Surprised Mr. Hanlon replied, "we don't have rules on Air B&Bs?" Ms. Vann replied "no, we don't have any rules on Air B&Bs." She added Bed & Breakfast establishments must be licensed and pay room and meal taxes to the state but if a homeowner is renting a room short term the Board has not addressed it.

A brief discussion followed with the sense of the Board being inclined not to spend time and effort dipping into it. The Members reviewed the definition of Bed & Breakfasts with Ms. Vann noting she recalled the minimum was three bedrooms. "3-12 rooms I think it was" she said. Mr. Carrara interjected "so right now the existing 1 to 2 bedrooms are in a legal limbo." Mr. Throop found and read the definition of Bed & Breakfast from 245-4 *Definitions* as follows: "a type of lodging establishment located within a single-family dwelling in which bedrooms are available as overnight accommodations for paying, transient guests and to whom a

morning meal may be served. The Bed & Breakfast establishment shall be managed by the owner of the property, who shall reside in the single-family dwelling, or in a legal accessor dwelling unit associated with the single-family dwelling, as his or her principal residence.”

With no apparent minimum number of bedrooms stated Mr. Throop went on to search the Conditional Use Permit section. Ms. Vann suggested they use a minimum of three bedrooms “so it would 3-12 beds” she said adding “if we even want to put in a lower number.” Ms. Heller replied, “I don’t think we should but if we do it should be 4-12 beds.” Mr. Carrara interjected he thought they should put in a minimum number “to protect the legitimate Bed & Breakfasts who have to comply with sprinklers, room and meal taxes and other licensing. “3 or 4 as a minimum is fine with me for those who are dabbling or once-in-a-while (ing)” he said. Ms. Vann also clarified that they were not speaking of a whole house rental, they were referring to bedrooms in a single-family house where the owner was present either in house or in an ADU.

Mr. Throop noted 245-6 C. *Uses Permitted by Conditional Use Permit* noting the criteria is set forth in Site Plan Regulations 233-55 B. 2. *Bed & Breakfast Establishments* which noted the establishments shall be limited to no more than six guest rooms.” “Again, no minimum number” he said.

Mr. Carrara the asked to revisit the clarification of *recreational facility* and asked, “how do we separate the small, outdoor, normal, traditional hunters who may want to go out and do some target practice?” adding “there are a lot of fishing and hunting enthusiasts that are in nonprofit clubs. Are we going to force everyone to be indoors from now on?” Mr. Throop replied, “we’ll have to research it and see how it is done in other towns” adding “and more importantly, how they enforce it.” Mr. Galus asked what else was covered under *recreational facility* with Mr. Throop again citing the definition as follows: “A building or place where recreation activities, except for motorized sorts, are offered to the public, in which the patrons are active participants rather than spectators. These facilities may be either public or private and may be provided by either indoor or outdoor facilities.” Mr. Throop went on to say, “it is by Special Exception.” Mr. Galus replied, “so the ZBA would allow it and the Planning Board review all the site plan review stuff.” Mr. Throop noted “yes, a rodeo may be out, but a horse show may not be, either way it requires a Special Exception.” Mr. Galus suggested they not look so narrowly and consider the bigger picture, “that is all” he said.

Discussion on Article: “How Historic Preservation Supports Affordability” An article published by CityLab reporting on “the country’s full-blown housing affordability crisis, skyrocketing housing costs and surging development.” The article notes tough challenges in trying to navigate these pressure “but creating a false dichotomy between affordable housing and historic preservation should not be one of them. Creating affordable housing and retaining urban character are not at all competing goals. In fact, contrary to the conventional wisdom, they can most successfully be achieved in tandem.” reads the article.

Mr. Ward led this discussion by telling the Members his first affiliation with any town committee in Peterborough was the Heritage Commission. “I am still their Board of Selectmen Liaison” he said. He told the Members he was receptive to concerns for the look and feel of the Downtown historic areas and neighborhood scales. He noted seeing property demolished and replaced with new construction adding “sometimes the property was condemned and sometimes it was not.” Mr. Ward asked the Members for input on buildings that may house apartments (without demolishing the existing structures) or new affordable units in town while respecting the fabrics of its neighborhoods. He noted the sense of scale, setbacks and various styles of Concord, Main, Grove, Granite and Pine Streets telling the Members “this is the face of Peterborough people see passing through town.” He went on to say, “you see this motion, these varying styles and then things change. Look at Concord Street. I am concerned about it and I am looking for help on how to encourage developers with (perhaps) incentives that will make everyone happy.” Mr. Ward concluded by asking for any suggestions adding he represented many people with those same concerns.

Mr. Hanlon noted he felt the article was esoteric in nature and noted a workshop sponsored by the Master Plan Steering Committee several years ago that identified and addressed these concerns. Ms. Heller asked about the types of incentives that may be offered to a developer with Mr. Hanlon interjecting “a developer may tear down an apartment building but put up three new houses” adding and if it is allowed in conventional zoning he is entitled to do so.” Mr. Carrara asked about any examples Mr. Ward may be thinking of with Ms. Heller interjecting “you are talking about compromises from a developer to keep existing structures, we have a case like this in front of us right now and we should not be talking about it.” Mr. Ward replied, “when you care it is hard not to.” Mr. Hanlon added “we have two before us right now.” Chair Holt replied, “we have one before us and one coming” and noting the earlier reference to Concord Street, cautioned Mr. Ward not to speak about the case.

The Members went on to discuss cited several examples of building being demolished for new construction including the Divine Mercy Church, Scott Farrar Assisted Living Facility, All Town Convenience Store and the “Overlook” residential development on Vine Street.

Mr. Ward told the Members “it seems like one *here* and one *there* but over time you can see there has been a lot.” Mr. Carrara noted he did not see where any of those tear downs were for financial benefit. “I just have not seen it” he said. He specifically noted the All Town project produced a building that was a safer and more accessible building. He then asked Mr. Ward “are you opposed to tearing down an old building itself or the *loss* of the look of an old building?” Ms. Heller noted it could make financial sense for a developer to rehabilitate a house rather than raze it. “It could be cost effective” she said. Mr. Carrara agreed that may be true “but being in the building world the developer sees old plumbing, old wires and standards not up to code.”

Chair Holt told Mr. Ward he’d wished for a better article. He said he felt the article “looked only at assumptions that large dilapidated houses be torn down for more density” adding with conviction “we are not willy-nilly tearing down houses.” Mr. Ward replied, “developers will tell you it is a tear down when it is habitable.” He then pointed out the three-unit apartment building at the five-way intersection at the top of Main Street as a perfect example. Mr. Carrara (who was the Code Enforcement Officer for Peterborough at the time) gave a brief review of the intense efforts in coordinating what could be done and what made economic sense for that rehabilitation. “It is rare, it was a successful rehab and a huge win for the town” he said. Mr. Carrara went on to say “there are lots of tools in the tool bag and things can be mandated by regulations, but I am much more for the carrot and less of the stick” he said. Mr. Carrara concluded by noting 36 Grove Street (a recently completely rehabilitated mixed use building with store front on Grove Street) “It looks great, we saved a shell of a building and now it is a show place. You win some and you lose some.”

Mr. Throop interjected “you can only do what the statute allows you to do.” Ms. Vann briefly reviewed RSA 79-E a Community Revitalization Tax Incentive that encourages investment in downtowns and village centers.

(This RSA provides a tax incentive for the rehabilitation and active use of under-utilized commercial buildings and, in so doing, aims to promote strong local economies and smart, sustainable growth as an alternative to sprawl. The tax incentive must be adopted at the local level before it can be offered to property-owners. If an application is made and approved the property owner receives a

period of relief from increased property taxes, usually 5 years. In exchange, the property owner grants a covenant for a certain period of years ensuring there is continuing public benefit to the rehabilitation.) Source: The New Hampshire Preservation Alliance.

Ms. Vann gave a few examples including the new Post & Bean Pub located in the former GAR Hall.

Mr. Throop noted other factors that were involved as well. “We appreciate the interest expressed by Tyler but that doesn’t always coincide with the interest of the land owners. Sometimes, we have no control” he said. Mr. Ward suggested “persuasion in a kind matter” with Mr. Throop noting the demographic and community preference data suggest are that millennials and seniors (prevalent populations) do *not* appear to want to own old homes. “They are not interested in the maintenance and upkeep of an old home. That is not where the market is going” he said adding “they appear to want simple, small and new.”

Mr. Ward told the Members he appreciated their participation in the discussion adding “we should be thinking about this all the time.” Chair Holt reiterated “it is not the case that we want everyone to tear down old buildings. Not the developers or the land owners.” Mr. Carrara suggested a more *you need to do this, and you need to do that* approach adding “if we do this as a Board we may get a better response.”

In closing Mr. Ward noted the current fee for a demolition permit was \$50.00 and asked if that fee might be higher or based on the square footage of the structure being demolished. Mr. Carrara interjected “in my experience that would only hurt the small people. Most of the demos have been small projects.” He added “and no one likes the demolition process (noting the criteria of over 50 years of age and larger than 400 square feet). People don’t like the fact you have to pay for a permit and go to a hearing just to tear down a small barn they cannot afford to fix. It sets the wrong tone, like scolding them for it, we want to avoid that and try to work with them.”

The meeting adjourned at 8:20 p.m.

Next Meeting:

December 17, 2018 at 6:30 p.m.

Respectfully submitted,

Laura Norton, Administrative Assistant