

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

Minutes of February 27, 2012

Members Present: Chairman Leandra MacDonald, Rich Clark, Alan Zeller, Jerry Galus, Audrey Cass, Joel Harrington, Bill Groff, Tom Weeks, and Barbara Miller, *ex officio*.

Also Present: Carol Ogilvie, Director Office of Community Development, Laura Norton, OCD Administrative Assistant

The Peterborough Planning Board held a public hearing on Monday, February 27, 2012 in the Selectmen's Meeting Room in the Town House. The purpose of this hearing was to review petitioned and Board-approved zoning amendments. The meeting was called to order at 6:00 p.m.

Chair MacDonald introduced the members and staff and noted there were four petitions and three zoning amendments on the agenda. She noted the petitioner or their representative would speak on the amendment followed by questions from the Board and then questions from the audience. She added "then we will deliberate and vote on whether to support the petitions or not."

Petition #1:

Petition to re-zone Parcel No. R003-024-000 on Route 202 South from Business/Industrial District to General Residence District.

Jim Stewart stood and introduced himself as a friend of the petitioner, Mary Graves who was not present. Mr. Stewart referred to a letter written and received by the town on February 7, 2012. The members acknowledged their receipt of the letter. Mr. Stewart briefly reviewed the contents of the letter. He pointed out the location of the 10 acre (+/-) parcel. He noted "Mary has owned the property for 29 years, and has had it for sale for over 25 years." He noted the parcel was narrow with a close proximity to the Contoocook River. He went on to note "its shape, size and current zoning have made the potential development of the parcel nearly impossible." Mr. Stewart noted that "realistically the parcel has about 1 ¾ acres of usable land." He asked the Board to support a change in zoning to General Residence "for the highest and best use of the property."

Chair MacDonald thanked Mr. Stewart for his comments. When there were no questions from the Board she asked if there were any questions from the audience. Fran Chapman stood and introduced himself. He began by noting "no property has been more frustrating" adding "the only thing wrong with it is the zoning, configuration and closeness to the water." Mr. Chapman went on to note "the highest and best use for this parcel is in someone else's imagination because most brokers cannot find one." He asked the members to "consider another zoning condition and try that" (and in reference to Mrs. Graves) added "she has tried, she has failed, the system has failed her. Please lend your support to this and give it a chance in the general public."

Petition #2:

Petition to rezone land owned by the Hospital (formerly Parcel No. U007-001-200, U007-001-100 and U005-024-000 from Family District to Monadnock Community Hospital Healthcare District.

Chair MacDonald began with “I see some hospital folks here.” Laura Gingras introduced herself and several other MCH staffers, Board Members and Legal Counsel. Ms. Gingras reviewed the purchase of three parcels that abut the MCH Campus. She noted “we would like to put them in the proper zone and move them in to the Monadnock Community Hospital Healthcare District.” She went on to note the definition of the district was very specific to healthcare services and that the Hospital currently had no plans for the acquired parcels. She went on to note “unless the parcels are in the proper zone we do not have the ability to consider them in our long term planning.” She reiterated that while the Hospital currently had no pending plans for the parcels, they (MCH) would have to return for site plan review at any time they did have a plan for expansion. She noted the goal of the Hospital “is to remain vibrant and relevant and be able to meet the needs of our community with flexibility and options as we go forward.”

With no immediate questions from the members Chair MacDonald opened the discussion to the audience. Charles McEachern introduced himself as a resident of Old Street Road. He noted “I support the Hospital’s position in this and recommend they are allowed to change.” Cecilia McEachern introduced herself and simply said “I am his wife and I concur.”

Sheila Kirkpatrick introduced herself as a member of the Heritage Commission. She briefly reviewed the importance of preserving “one of the oldest parts of town, Old Street Road” adding “there are a lot of things in the woods that could be dismissed as they go through to put in parking.” Ms. Kirkpatrick suggested the Hospital consider plans slowly and carefully (“not like a bulldozer”) as they go through the land up there. She also mentioned a three-season house that had been picked apart bit by bit without a demolition permit “there was no review before that house was demolished” she said. Ms. Kirkpatrick concluded by noting “I would like to remind you to please be careful on the top of the hill, be very careful.” Mr. Harrington asked if there were any architectural issues that anyone was aware of with Ms. Kirkpatrick replying “well we know it was a (circa) 1700 house.” She then gave a brief history of the house she referred to as “a charming little thing that is almost not there anymore.” Mr. Galus asked if the Heritage Commission had done any kind of an inventory in that area with Ms. Kirkpatrick replying “not a formal one but we could come up with one.”

Tom Humphrey introduced himself as Director of Engineering at MCH. He noted he and Hospital CEO Peter Gosline had walked the boundary of the parcel with the Heritage Commission and agreed “unfortunately certain elements were removed by the family” but added “it was a contingency of the sale.” He noted family member had taken doors and windows as mementos of the good times in the house. He went on to note “so when they got done we boarded it up to protect what was left.” Mr. Humphrey also noted “we respect the history and the elements of the house” but added “not everything is original to its century; there are modern elements that have been done to the house over the years.”

Jeff Crocker introduced himself and briefly commented on the efforts of the MCH to be “good neighbors” throughout their expansion process with neighborhood meetings. He also noted “the lots in question all directly abut the Healthcare District. “I just wanted to emphasize that” he said. When asked if he was aware of a letter received from an abutter on Old Street Road. Mr. Crocker noted he did not see a letter but was aware of an e-mail about that abutter’s concerns should the Hospital ever decide to sell its land.

A brief discussion about how changes in zoning may or may not cause an impediment to an abutting owner. It was also reiterated that any future plans for the parcels would be reviewed and regulated by the Planning Board and the Site Plan Review process. One of the parcels (U005-024-000) was particularly discussed with Mr. Humphrey maintaining the extremely steep grades would make development unlikely and Mr. Weeks noting his concern that the entire parcel was surrounded by the Family District. Mr. Crocker concluded by noting the Planning Board has a good tool box and the ability to deal with a site plan review, site survey and existing features.

Petition #3:

Petition to add Retail Establishments as a permitted use in the Commerce Park District.

Craig Hicks introduced himself as the owner of the property at Commerce Park. He began with “four years ago I petitioned and not much has changed, it is about the same now as it was then.” He briefly explained the permitted principle uses in Commerce Park and his interpretation of how the Master Plan supports retail as having “the most day to day impact on the lifestyle of a community.” He went on to note a formula for spending money out of town and how the “money spent out of town “does not go ping-ponging around our town” adding “and there is a pretty good indication we are not spending our dollars here.” Mr. Hicks gave a brief history of how Peterborough used to be the economic center of the area offering grocery shopping, car dealerships and a department store. “We were not travelling to buy” he said. He also noted the loss of several corporate offices that have left town.

Mr. Hicks reviewed how one by one how retail opportunities have closed down or left town “or not even come to town.” He noted “we are missing an opportunity because nothing is occurring except retail” adding “and when you shop local the dollar stays local.” He went on to use the city of Keene, NH as an example noting “they put money into their downtown knowing retail breeds retail and it is pretty darn busy over there now.” He concluded by thanking the Board and noting “the opportunity is in retail, I ask you to think about it and support it. We are not going to be corporate headquarters anymore.”

Loretta Laurenitis introduced herself and noted that while she was the Chairman of the Zoning Board of Adjustment “I am here speaking for myself.” She said she did not think establishing another retail center off Route 202 was consistent with the Master Plan adding “the current plazas are not fully used as it is.” She noted the town had voted on this issue four years ago and turned it down. Richard Fernald introduced himself and asked about the availability of town water and sewer. Mr. Hicks replied “it has town water and 3-phase power. The sewer is up on (Route) 202.” Ms. Kirkpatrick stood and noted she agreed with Ms. Laurenitis and her concerns.

Mr. Hicks interjected “I respectfully disagree with the Chair of the ZBA” adding “we are looking at a new bridge, two new bridges actually, a new pool and every year we walk away from retail, every year.” He went on to add “OK, hindsight is 20/20” so in moving forward he asked “how are we going to bring money into this town? It is retail.” Mr. Hicks briefly spoke about a Commerce Park retail opportunity lost that had the potential to employ about 700 people “that is a lot of jobs and a lot of money that would stay in town” concluding “so four years ago is irrelevant.”

Petition #4:

Petition to rezone Parcel No. U022-002-000 from Rural and Family Districts to Village Commercial District.

This was Mr. Hicks’ second petition. He gave a brief review of a Charrette done in 2005 by Plan New Hampshire and how he had worked on the Village Commercial District for several years “trying to jump start development in the plaza areas.” He noted “we gave the tools to the developers, wide open zoning with flexible setbacks that were supported by the Planning Board.” He went on to note a lack of progress adding “frankly I don’t blame them, they collect good rent, one (plaza owner) is in Vermont and the other is in New York.” He noted the suggestion made back then that “one way to improve circulation in the area was to connect Mercer Avenue to Route 202.” He went on to note “I have spent a lot of money holding on to land (adding he has spent more on taxes over the years than the purchase price of the parcel). “I am covering all my bases and I ask you to consider it as well” he said.

A brief discussion about potential access to US Route 202 followed. Mr. Weeks noted a concern “in supporting a petition whose only access is through the Family District.” Mr. Hicks replied “that is a good point but ultimately through site plan review it comes right back to you. That is what we have a Planning Board for.”

Mr. Harrington asked for clarification noting he had served on the Planning Board in another city but “I am new to the process *here*” and asked “what does asking for rezoning do to help you? I just want to understand.” Mr. Hicks noted often a developer or land owner will improve the status of the parcel for resale. “Any time you can improve and upgrade the uses of a property you enhance the marketing of it” he said. Mr. Hicks then added “it is no different than RiverMead, improve the property, get approvals and sell it. He went on to add he did not know who owned Shaw’s (grocery store) now “but most likely it is not the one who started it.”

Walter Roman introduced himself as a resident of Goyette Drive. “I don’t live on Mercer Avenue but I live in the neighborhood” he said. He went to note his concern of the Village Commercial District “through a residential neighborhood.”

With no other comments Chair MacDonald moved on to the changes in definitions. She read the proposal of *buffer* and *setback* and noted “and we are adding the definition of *conference facility* because it is an established permitted use but has no definition.” Chair MacDonald then asked “any comments?”

Richard Fernald stood and introduced himself. He noted his immense concern with the definition of setback and read that definition to the members. He also read the current definition for setback emphasizing “open and unoccupied.” He suggested that by taking out the provisions of undeveloped and open and unoccupied “you will destroy the setback provision of the Peterborough Zoning Ordinance if you do that.”

Mr. Fernald noted he had been in town for 42 years “and setbacks have been essential to this town. One of the reasons this town is so attractive is because of the setbacks.” Mr. Fernald reiterated his interpretation of the definition from several different angles before concluding “I cannot understand why the Board is supporting this change.”

A brief discussion about the definition and the meaning of *open and unoccupied* followed. Mr. Weeks concluded the discussion, explaining “the parking setbacks do not meet the district setbacks.” He noted the Business/Industrial District as an example “the front setback is 50 feet but the parking setback is only 20 feet so there is a conflict there.” Mr. Weeks also noted conflicts in the past with “anything you might think of” including fire hydrants and air conditioners. Mr. Clark interjected “the rules are all throughout the ordinance, definitions should not rule.” Chair MacDonald noted “we have a process in place” and asked “is there any pressing need to change this now?” Ms. Ogilvie replied “no.” “Then let’s leave it in place and give it some more thought” replied Chair MacDonald. Ms. Ogilvie noted “this will not change the way Dario will do his job.” In closing Mr. Harrington cautioned the Board from getting hung up on a “swing set by swing set” basis of deciding if something is in the setback. “I would really caution against evaluation of every piece of everything someone has” he said.

Mr. Fernald reiterated his belief that “if you remove the present definition of setback you open the doors to let anything come in” adding “anything goes.” Mr. Harrington replied “we are not doing away with the definition.” Ms. Cass agreed noting “this is a definition, we are not disallowing recourse, we are defining what it is.” Ms. Laurenitis (again speaking for herself as a citizen) stated “I support Dick (Fernald) and I have real concerns about what kind of unintended consequences you would be opening up.” She added “I think you should work on this in the next year. Invite us (the ZBA) to come and work with you.” Chair MacDonald concurred noting “I think we can agree it needs some study.”

The Public Hearing closed at 7:15 p.m.

Deliberation

“Let’s start with the zoning amendments” said Chair MacDonald. She then appointed Mr. Galus and Mr. Clark to sit for deliberation.

A motion was made/seconded (Miller/Harrington) **to move** Proposal #5 Setback Exemptions for Sheds to the ballot with all in favor.

A motion was made/seconded (Galus/Weeks) **to move** the Definitions of Buffer and Conference Facility to the ballot while **leaving** the definition of Setback in its current form for the time being with all in favor.

Mr. Fernald noted an explanation of the relocation of §207-6 to §245-5 should accompany the amendment with Chair MacDonald replying “an explanation will be on the ballot.”

Moving on to the petitions Chair MacDonald noted she would move that the Planning Board support each petition, await a second for the motion and then engage in discussion.

Petition #1: Petition to re-zone Parcel No. R003-024-000 on Route 202 South from Business/Industrial District to General Residence District.

A motion was made/seconded (MacDonald/Harrington) to support the petition.

The members briefly discussed the location of the parcel noting there was residential area behind it. One member noted “well clearly it is not an industrial site.” Another member noted the old mill located on the parcel with a lot of stone work “it has historical value” they said. Mr. Weeks noted “it used to be zoned rural then it was changed to industrial.” Chair MacDonald interjected “it is on a major highway with really good access. Being General Residence there would not interfere with any of the neighbors.” The members briefly discussed the terrain of the parcel with Ms. Miller concluding “why not help her make the best use of her property?”

A vote was called *with all but Mr. Weeks and Mr. Clark in favor* of supporting the petition.

Petition #2: Petition to rezone land owned by the Hospital (formerly Parcel No. U007-001-200, U007-001-100 and U005-024-000 from Family District to Monadnock Community Hospital Healthcare District.

A motion was made/seconded (MacDonald/ Weeks) to support the petition.

The members briefly reviewed the request without additional questions.

A vote was called **with all in favor** to support the petition.

Petition #3: Petition to add Retail Establishments as a permitted use in the Commerce Park District.

A motion was made/seconded (MacDonald/Weeks) to support the petition.

The members reviewed the permitted uses in the district and noted the significant setback from the highway. Chair MacDonald noted “whatever is in there will not be highly visible from the road.” It was also noted the entire parcel only had one egress to the highway but the sight distance at the designated entrance was good.

Mr. Harrington asked about any Master Plan comments for retail in the area noting its distance from the downtown.

A vote was called with all **in favor** to support the petition.

Petition #4: Petition to rezone Parcel No. U022-002-000 from Rural to Family Districts to Village Commercial District.

A motion was made/seconded (McDonald/Miller) to support the petition.

Chair MacDonald began with “we all know this parcel.” Mr. Harrington asked for clarification of the location noting “I just don’t understand the map.” Chair MacDonald responded by pointing out the parcel boundaries. Mr. Zeller noted he had walked the lot adding “it is on a cliff.” He went on to describe the flat (level) area where the proposed building would be located but noted the parking would have to be uphill of that area.

A discussion about the definition of elderly (55 years+) in the ordinance ensued. Several members agreed that at age 55 “many people are at the highest earning years of their life and have the most toys.” This led to a discussion of traffic patterns and congestion. Mr. Clark reminded the members that any applicant would have to come back to the Planning Board for site plan review. Another member noted the cost of developing the site may be prohibitive.

Ms. Miller interjected “I think we should vote for this and give him the option to explore.” Mr. Harrington and Chair MacDonald agreed with Chair MacDonald noting a similar example would most likely be Woodland Heights located off MacDowell Road.

A vote was called and members *Harrington, MacDonald, Clark, Miller, and Galus* **were in favor** of supporting the petition.

Mr. Groff informed the members that as a standing Supreme Court Judge he could not be a sitting member of the Planning Board and that he would not seek re-election. “It is a code of conduct issue” he said “so I will not be able to run.”

Ms. Ogilvie noted members seeking election/re-election must state their intent at the Town Clerk’s office between March 21st and March 30th at close of day. She also reminded the members all were welcome at the March 1st Planning Board training session (March 1, 2012 at 4:00 p.m.).

The meeting adjourned at 9:25 p.m.

Respectfully submitted,

Laura Norton
Administrative Assistant

Approved March 12, 2012