

JOINT MEETING OF THE PETERBOROUGH PLANNING BOARD AND THE
PETERBOROUGH CONSERVATION COMMISSION

TOWN OF PETERBOROUGH, NH

Minutes of January 19, 2017

This joint Public Hearing with the Peterborough Planning Board, Conservation Commission (ConCom) and Open Space Committee is a result of the ConCom's request to meet and discuss several questions and concerns based on their understanding of the proposed Traditional Neighborhood Overlay Zone II (TND II) while the ordinance is in a draft stage and before the public hearing process is completed.

Members Present: *Traditional Neighborhood Design II Steering Committee:* Planning Board Chairman Ivy Vann, Master Plan Steering Committee Co-Chairman Sue Chollet, Planning Board Member Bob Holt and Project Consultant Carol Ogilvie via conference call. *Planning Board:* Alan Zeller, Jerry Galus, and Matt Waitkins. *Conservation Commission:* Chairman John Kerrick, Swift Corwin, Cynthia Nichols, JoAnne Carr, Robert Wood, John Patterson, Francie Von Mertens and Board of Selectmen Liaison Tyler Ward. *Open Space Committee:* Debbie Kaiser, Anne Huberman and Joel Huberman. *Guest:* Dick Estes

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

Chair Kerrick called the meeting to order at 7:00 p.m. noting he was delighted that the Planning Board could attend their meeting. "It is much appreciated" he said.

After introductions Francie Von Mertens noted Ed Juengst, the Board of Selectmen Liaison to the Planning Board was unable to attend but asked she convey his suggestion for a workshop to further discuss the new ordinance. "He will be requesting that" she said. She went on to review what she referred to as a "list to digest. To create a bit of a concept would be helpful" she said. Chair Kerrick interjected "is that clear? We are looking for a healthy dialogue."

Ms. Von Mertens noted TND II Steering Committee member Sue Chollet had attended the December 15th joint ConCom/Open Space Committee meeting to discuss the draft ordinance. She told the group many of the concerns and questions the ConCom had with the first draft of the ordinance were still relevant. "We have a second draft and working on a third but we now are all in that boat together" she said. She told the group that they believed had a good understanding of the ordinance's history (*grant/consultant/steering committee/public hearings/draft*

ordinance). She noted the map that had been created depicting the sewer (brown lines) and water lines (blue lines) that had raised concerns beyond the ConCom and Open Space Committees. “I understand a new map is in the process” she said.

Ms. Von Mertens looked around and said “I think we meet the goals on common ground.” She noted “village compact to the new village concept, having ideally smaller lots with smaller, more affordable housing. The *missing middle* in terms of housing diversity” concluding “the ordinance should be very clear on that goal. The purpose also needs to be very clearly stated.”

Before moving on to her list, Ms. Von Mertens thanked all the participants for their involvement. “This is a first” she said adding “and all committees should be invited to participate prior to public hearings when any major ordinance changes are being considered.” She acknowledged her list was a bit of a shopping list “but we’ll get through it.”

Ms. Von Mertens reiterated “meet on common ground with a shared goal, a general consensus agreement which is very clear right at the start of the ordinance.” She noted the ConCom and the Open Space Committee are supportive of smaller houses that have smaller ecological footprints “but the main *concern* is that density is by right and our *fear* is the role of the Planning Board is diminished in its land use regulatory authority to award density by meeting the simple, clear criteria that supports the ordinance’s purpose and intent.” She went on to ask why the design requirements for the new ordinance (TND II) were not the same as the original TND I (adopted by the Town in 2015).

Ms. Von Mertens also noted the building design guidelines under the Conditional Use Permit process. She told the group “the language *to the extent applicable* makes me nervous” again asking why the language was not the same as the TND I. “To the extent applicable lacks clarity” she said and asked “with density by right can you apply standards? The TND I says *shall do* this and *shall do* that. I would like to see more encouragement in the TND II.”

Ms. Von Mertens noted other concerns with TND II included neighborhood compatibility (new neighborhoods will not have neighbors within 300 feet to set design standards); the lack of language strongly discouraging demolition of existing, habitable buildings for the sole purpose of subdivision (“there is no language against the demolition of houses in good repair”) she said; whether or not imposing a house size limit may increase a development that would meet the ordinance goal of a housing diversity that meets the needs of the missing middle (“we can agree on that”) she said and suggested larger employers like the Hospital and Rivermead consider staff and student housing. “Let them do a prototype

village, I am sure they would do a bang up job. Both were represented on the Steering Committee for this ordinance.” Ms. Von Mertens told the group that the first (and so far, only) development using TND I had sale prices in excess of \$390,000.00 noting “this was the ordinance’s first outcome, are there any lessons to be learned?”

Ms. Von Mertens cited the recent drought conditions and the impact on the water supply (the town was down to one operating well this summer). “How many new villages can the town accept?” She asked as she reiterated the need for an overlay map to give them the sense of what properties would qualify for TND II. She told the group Ms. Ogilvie maintained that identifying specific locations was a difficult task as water and sewer lines are not “fixed” and may have extensions.”

In closing Ms. Von Mertens briefly reviewed recent infill ordinances (the West Peterborough TIF District, Workforce Housing, TND I and the State’s most recent mandated Accessory Dwelling Unit (ADUS) all with potential to expand housing diversity and infill. “We need to learn from the first application (TND I) to help refine this one” she said adding “and the December 12, 2016 Minutes of a Planning Board meeting indicate that the Master Plan Steering Committee will begin its update of the Housing Chapter of the Master Plan in February (and) that Consultant Carol Ogilvie had told the Board members “they will be discussing using zoning to get what the town people say they want.” “This brings up a question of timing” she said.

A brief discussion about the potential locations of new villages followed (to the south and various other locations) with Ms. Vann reiterating town water and sewer must be available to the parcel. “This is very clear in TND II” she said adding “and it did not make sense to pick one location in town and say we want this *here*, because it may not be a good location. We don’t know where “good locations” may be in the future and by identifying specific areas, we may be eliminating appropriate parcels or including parcels that are *not* appropriate.” Mr. Holt agreed adding “Mr. Belletete’s Church Street property has been brought up. We may not have chosen that parcel but it may have a good outcome.” He went on to reiterate the ordinance was limited to the current infrastructure which would restrict extension into the Rural District “and is open to any area where development seems beneficial without bestowing a boon to a particular part of town. There are a lot of reasons not to choose a particular location. It is *allowed* where the infrastructure *allows* it.” Ms. Vann added “and I strongly feel this will not encourage a big development. It allows for little pieces of development (one and two family homes and duplexes) rather than a big project and allow us to grow incrementally like we did for 200 years.” Mr. Holt added “the intent is to allow it and wind back the clock” with Mr. Galus interjecting “it is organic growth.”

Ms. Von Mertens asked “so it is not new village infill?” Mr. Holt replied “new village is a misnomer, it is updating zoning to allow more organic growth, the way we grew before the 1970s.” A brief reiteration of size limits, density by right and carrot and stick incentive ideas followed. Ms. Vann reiterated the ordinance allowed only two units by right. “Anything bigger than that you would have go to the Planning Board for the full monty” she said. “It is higher density with smaller houses on smaller lots” said Mr. Holt adding “that is what we want.”

Ms. Carr had several questions and comments about village center layouts versus the water and sewer lines (“which are quite extensive”). She asked about the change for what already exists, the ordinance conforming to the Master Plan, how it fits with open space and how the gateways to town would be addressed. Ms. Vann explained the ordinance would allow smaller lots with 50 feet of frontage “regardless of what the underlying zoning calls for.” Ms. Vann then apologized for the map not being the most recent version depicting potential TND II neighborhoods. “This is responding to what we have heard over and over and over again” she said adding “and it follows what is in the Master Plan.” Ms. Chollet added “encourage building on smaller lots, closer to town will serve the town well.” Ms. Von Mertens replied “I think we all agree that this is what we want, we want your missing middle.” She went on to say “but it is like a Catch-22. 99.9% is spec housing for this.” Ms. Von Mertens once again suggested, even encouraged staff housing projects be built by facilities like Rivermead and the local Hospital.

Mr. Holt interjected it is easy to be afraid of new zoning but what is available now is three-acre lots with septic systems. The ordinance allows a more sustainable, diverse type of development and hopefully those large lots go into conservation.” Ms. Vann reiterated “we know what current zoning is giving us. If we do nothing, we know what we will get. If we do not change, we will not get what we want. The goal is to allow for incremental growth contiguous to the town we already have.” She went on to say “in turn this allows for the organization of growth within a new village center where you will find mixed use. Maybe a corner store.” She concluded by again reiterating “we know what current zoning will give us and it is not what the town has told us they want.”

Ms. Chollet noted she did like the carrot and stick approach as well, “it is good to have both” she said. She also mentioned the TND I had stronger language and advocated changing the word *allow* to *encourage* “to make what we want to have happen, happen.” Ms. Von Mertens asked “what is the worst case scenario? Can we rescind it?” Ms. Vann replied “anytime you make a change to zoning you are affecting someone’s land use potential. So yes, you could change it like any other zoning ordinance. If it is not working you can take it away or amend it at Town

Meeting.” Ms. Von Mertens reiterated the need for a map showing the water and sewer lines and “and where this could happen.” Ms. Vann confirmed “you want a map of just water and sewer lines together? We can do that.” She walked up to the map being projected on the screen and pointed out the water line saying “just water? No sewer? Not here” pointing again to another area “just water? No sewer? Not here.” To make her point.

Ms. Nichols asked if the maps would be exact with Mr. Throop noting the maps showed the lines with a 400-foot buffer. A brief discussion about the differences between TND I and TND II followed, specifically the lot coverage (25% TND I versus 40% TND II), water concerns (water quality/quantity issues and storm water maintenance), impervious surfaces (25% in the Family District, 35% in the General Residence District in TND I versus 40% in TND II) and how the two ordinances may become even more similar over time.

Ms. Vann noted language for the Gateways into town (US Route 101 with an 80-foot vegetative buffer and US Route 202 with a 50-foot vegetative buffer). Mr. Throop reviewed the applicability and general provisions of the Rural Gateway Overlay Zones. When finished he looked up and said “I see no reason why these would not continue to apply.”

Mr. Ward asked for clarification of the neighborhoods Ms. Vann had pointed out so they might envision where the impact may be. Ms. Vann pointed out the Pine Ridge, Robbe Farm and Sand Hill Road developments. In turn Mr. Ward noted he was alarmed to see the number of housing units in town that were not on town sewer. “I wonder if they are monitored, I wonder how many have failed” he said.

Ms. Von Mertens one again noted the importance of a map depicting the town water and sewer lines “to get a better grasp of the potential areas of this” adding “and I do feel better about being able to rescind this if necessary” she said. “We can make a map” replied Ms. Vann. Noting he was color blind Mr. Waitkins told the group a color coded map was irrelevant to him noting “I just want to see where the lines run together.”

Referring to the developments Ms. Vann pointed out, Ms. Carr noted she had lived in the Pine Ridge development. “They are about one acre lots, a nice development walkable to the schools” she said. Mr. Zeller noted he lived in the Robbe Farm development. “The lots are about 8500 square feet” he said. Ms. Vann interjected “that is about a quarter acre in size and the developer used the Open Space Residential Development (OSRD) ordinance to create that neighborhood.”

With that being said Ms. Carr had a land development question regarding houses being placed on the most appropriate part of the property. “Those thoughts should be taken into consideration” she said adding “I am not sure the conservation principles we have are protected in this ordinance. Let’s not be afraid to develop, let’s be afraid of development without concern for these values. A denser infrastructure without forgetting conservations and land use principles.”

Ms. Carr then asked “as a tax payer how much of a burden will this be? With a number of smaller roads and the long term cost of maintaining them I fail to see how this is in the spirit of the Master Plan.” Ms. Vann replied “for many reasons (emotional, philanthropic, aesthetic) I have told this story and I am going to tell it again.” She went to tell the group about an 800-foot long road in town with five houses on it. She explained 10% of taxes paid go to the Department of Public Works “It is allocated to DPW for everything they do” she said. Ms. Vann went on to say “if you took every penny they pay in taxes to repave the road it would take 30 years. We cannot afford that type of development. This (ordinance) puts houses where houses already are.” She also reiterated subdivision regulations and road standards kick in for more than two units. Ms. Huberman asked “will we get any affordable housing out of this?” Ms. Vann replied “we cannot mandate affordable housing but we know currently we are guaranteed we will never get it with these restraints.” Ms. Chollet agreed noting “we cannot mandate the size or the price, we are more likely to get what we want with this than if we do nothing.”

A brief discussion about housing costs, current zoning regulations and the irony of polluted parcels (example: physically with buried tanks or psychologically with too much zoning and dimensional restrictions) followed. Ms. Vann noted “let’s face it. What is left in the rural areas is more expensive and harder to develop, the easy lots are gone. Raw land costs are higher in rural area and do not allow for more density in compact areas. We can’t expect to get less expensive housing. I cannot promise we will but I can guarantee you we will *not* if we do nothing.”

Ms. Von Mertens noted an example of a parcel meeting all the criteria of the ordinance with town water only. “If the Planning Board is in agreement that this is a good place for infill can a DES approved community septic system be put in?” she asked. “Yes” replied Ms. Vann adding “and it would be lovely but not if we do not fix the zoning.” Ms. Von Mertens reiterated her concern about density by right. “I know we have design standards but I see no carrot and stick” she said adding “so the house faces the road the garage is out back and you have a framer’s porch. It is still allowing density by right.” Ms. Vann replied “we want people where the people already are.”

Ms. Nichols agreed with the lack of incentives for developers to serve the missing middle. Ms. Vann explained that a part of the purpose of the ordinance was to create a framework to figure out other things like transfer of development rights. “We don’t have that possibility today” she said adding “this will allow us to make those types of offers. Right now we do not have the tools to do what we believe the town wants.” Ms. Vann asked Mr. Holt to repeat what he had said the night before at the Planning Board’s Public Hearing on TND II. Chair Kerrick interjected “go ahead, this will be the closing statement.” With a smile Mr. Holt replied “it was last night too.” As he looked around the table Mr. Holt asked “have you thought about what we love about our town and how it may be improved?” What type of development we like, we don’t like and when it was built? This ordinance allows turning back the clock for incremental development like it happened 200 years ago.” Mr. Holt cited streets like Grove, High and Pine and how they came to be what they are a long time ago. Referring to the Town’s zoning ordinances he concluded “parts of town we may not like or want all happened after these came along.”

Once again Chair Kerrick thanked all who came to participate.

The meeting adjourned at 7:45 p.m.

Respectfully submitted,

Laura Norton
Administrative Assistant