

## PLANNING BOARD

### TOWN OF PETERBOROUGH, NH

Minutes of February 6, 2017

**Members Present:** Chair Ivy Vann, Alan Zeller, Joe Hanlon, Bob Holt, Jerry Galus, and Ed Juengst

**Staff Present:** Peter Throop, Director and Laura Norton, Administrative Assistant, Office of Community Development; Dario Carrara, Code Enforcement Officer

Chair Vann called the meeting to order at 6:30 p.m. After introductions Chair Vann noted “this is a special Workshop regarding the Traditional Neighborhood Overlay District II (TND II).”

She went on to say “the goal for tonight is to talk about and understand this ordinance so that we are all happy with it – or as happy as we can be within the confines of the Steering Committee and the Town.”

#### **Minutes:**

A motion was made/seconded (Zeller/Holt) to approve the Minutes of January 18, 2017 as written with all in favor.

A motion was made/seconded (Holt/Hanlon) to approve the Minutes of January 19, 2017 with all in favor.

Chair Vann noted the workshop was to review the Traditional Neighborhood Design Zone II which proposes an increase in opportunities for smaller houses on smaller lots where municipal water and sewer exist or may be extended. This would be subject to meeting the criteria of the ordinance. Chair Vann went on to say “the best way to get through this logically is item by item.” She briefly noted the history of the MTAG Grant, Steering Committee and public outreach that got them all here tonight. As she looked around she said “the goal of this ordinance is to grow in an organic way, the way we did before zoning (which is not working all that well) was adopted.”

*Purpose and Intent:* Chair Vann read this section which described the creation of additional housing opportunities adjacent to as well as within the developed core of Peterborough. What she read also included the opportunity for small-scale businesses as an accessory use to fit the shifting community demographics.

*Discussion:* Mr. Hanlon questioned the language of the *developed core of the downtown* and a discussion followed. Chair Vann defined this section within a radius of the downtown but with adjacent areas with town water and sewer as well. Mr. Hanlon felt the language of *developed core of the downtown* was redundant. Chair Vann noted “TND I is the downtown core and TND II is adjacent to the downtown core.” “It seems vague” replied Mr. Hanlon. As he re-read the language Mr. Holt interjected “the core is the area adjacent to town water and sewer.” Mr. Hanlon also noted his concern with the language of *proximity and greater accessibility*. “This sounds like TND I, this does not sound genuine” he said. Mr. Galus noted when talking about accessibility “it is a closer proximity and has greater accessibility, more houses, better roads and closer to Police, Fire and Emergency Services.” A discussion about allowing (and encouraging) residents to become less automobile dependent followed. “We can only hope they will walk if there are sidewalks” said Chair Vann. Mr. Hanlon suggested taking this out. “That is not what we are trying to do” he said. “Actually, it is” replied Chair Vann.

*Authority and Administration:* Chair Vann read this section with no questions or concerns. Mr. Throop noted that all Conditional Use Permits were subject to Section 233-51 of the Site Plan Review Regulations and this should be added to this paragraph.

*Applicability:* Chair Vann read this section with no questions or concerns.

*Permitted Uses:* These uses included single-family (onesies), two-family (twosies), and multi-family up to a maximum of ten dwelling units, with permitted non-residential accessory uses (no more than 25% of the total floor area), including personal and professional services or small retail such as a coffee shop or small business.

*Discussion:* The members briefly discussed historic development patterns of commercial or retail on the main floor and office or residential on the second and third floors. When Mr. Throop asked if the downtown center form would be allowed in all areas Chair Vann replied “I am inclined to say yes” as she noted the criteria of the Conditional Use Permit (CUP) and the 40% lot coverage criteria. Mr. Throop noted using the downtown center core form as a CUP criteria when making a finding. “I just want to make sure the Board is clear on this. That each member understands the implications in making your decision” he said.

Code Enforcement Officer Dario Carrara noted the fact that the intent of the ordinance was that there could be one non-residential use per dwelling intended to serve the neighborhood (small repair service or coffee shop) and that if a use

changed in any way the request would have to come back before the Board for a new CUP. Chair Vann agreed noting “any non-residential use change must come back.” Mr. Throop added non-residential uses are accessory uses to the dwelling units on the same lot and are subject to Site Plan Review. He also asked for a point of clarification when he asked about existing as well as new buildings. Chair Vann replied “both as long as it is only 25% of the total floor area.”

A brief discussion about non-residential uses and home-based businesses by right followed. Mr. Throop described the three levels of Home Occupations (allowed by right), Professional Uses and Home Industries (both allowed by Conditional Use Permit).

The members also had a brief discussion about the total floor area of non-residential uses and greater flexibility in tying nonresidential uses to a unit, for example the intent of the ordinance is that there be only one non-residential use permitted per dwelling unit but for projects that involve multiple dwelling units more than one non-residential use may be approved. (A 10-unit, 10,000 square foot complex would equate to no more than 2,500 square feet in any combination of 1 to 10 non-residential accessory uses).

Mr. Carrara asked about the calculation of living space (specifically basements). “We need a good definition of residential floor area” he said adding “*living space* (versus porch or deck or basement) is a key word.” After discussion it was determined if the basement was finished or converted, it would count as living space. With a smile Mr. Carrara confirmed “so no tents or yurts.” Mr. Hanlon cautioned “if there are any loop holes in this someone will find them and then come right to you, right Dario?” Mr. Carrara agreed noting “I am looking for a bowl, not a colander.” Chair Vann offered “we pass it and we find ways to make it better” adding “this is not our first trip to the minimart.”

The members moved on to the language of “it is the intent of this ordinance that residential and non-residential uses may exist on the same lot or in the same building.” It was noted any non-residential uses would require a new Conditional Use Permit from the Planning Board. Chair Vann then summed up the discussion with four points:

- only one non-residential use per dwelling unit;
- maintain allowable scale of 25% of total residential living space;
- residential and non-residential uses may exist in the same building, or in separate buildings on the same lot;

- any change of use will require a new Conditional Use Permit from the Planning Board.

*Minimum Requirements:* Water & Sewer, either for subdivision or building on a vacant lot the applicant must already be served by town water and sewer or connection to the services will be established.

*Discussion:* The members engaged in a brief discussion of an alternative DES-approved community (septic) system and why it was taken out of the language. “It is too confusing, it implies something we do not mean to imply” said Chair Vann.

*Lot and Yard Standards:* The members reviewed *Lot Size, Frontage, Building Footprint Coverage, Setbacks, Building Design & Driveways, Stormwater Management, Maintenance Agreements and the Reuse of Existing Buildings.*

*Discussion:* Mr. Hanlon had a reservation about the scale and scope of no minimum lot size. “This is a big incentive for growth without a way to measure it” he said. After brief discussion this was changed to minimum lot size of 5,000 square feet.

Lot Frontage of 50 feet and Lot Coverage of 40% stayed the same. As did the Setbacks of at least two feet by no more than 20 feet from the front property line and five feet from the rear property line with accessory structures located to the rear of the lot.

*Stormwater Management:* A brief discussion about the recent water ban and noting the capacity of the water system and future impacts the language of “depending on the particular circumstances of the proposed development” was struck and replaced with “in order to meet DES Standards.”

*Building Design /Parking & Driveways:* The members then struck the reference to Building Design/Parking & Driveways be in accordance with the standards outlined in the Site and Building Guidelines appended to Zone 1 and noted Building Design required the primary entrance for the building be oriented toward the street with the height, scale and massing, orientation and spacing of doors and windows and shape and orientation of roof lines reflecting other existing residences within 300 feet of the property. If the proposed development is a new development and there are is no existing development within 300 feet, then the building designs shall reflect traditional Peterborough forms. Driveways and

Parking between the lots are encouraged and if shared, the setback in E. (2) (d) (ii) does not apply.

*Maintenance Agreements:* No changes to this section.

*Reuse of Existing Buildings:* It was noted the demolition of an existing habitable building (dwelling) in order to subdivide a lot or create additional dwelling units on that lot is strongly discouraged.

Citing the concerns of demolishing a habitable building Ms. Ogilvie noted the months of public outreach and the advice of the Steering Committee. She told the members that the cost of land is high. “Developers are not expecting to see a big explosion” she said adding “people want smaller houses closer to town. Zoning has to change because right now only the Rural District is left.” She reiterated Chair Vann as well as Town Attorney John Ratigan saying “if this ordinance is not getting you what you want or what you expect, come back next year and change it.”

With regards to concerns over explosive growth, Chair Vann interjected “we have had TND I for three years now and we have had one approval.” Mr. Hanlon added “there is one other application (pending).” Chair Vann concluded “we are not in danger of explosive growth” noting “any growth we have will come in the areas we talked about (adjacent to existing roads with town water and sewer). She also noted, extension to an existing service costs upward of \$500.00 per foot. “If we do nothing you will have houses on large lots in the Rural District” she said.

Mr. Juengst asked if the ordinance was adopted “in the future can we just take it away?” Chair Vann replied “zoning is not a specific thing, the town can determine how it works for its growth patterns.” She went on to say “I don’t know what to tell you. A *lot* of time has been spent on this and we should not stall now with *what ifs?* As humans, we are inclined to imagine the worst that can happen. We are good at imaging the terrible things that can happen if we do something, but we are crappy at imagining the terrible things that can happen if we do nothing.”

Mr. Throop spoke briefly about density, growth and design, noting the geometry, size and streetscape of the lot. “The point is to draw out these scenarios” he said adding “with different assumptions for building sizes that will inform what you want for streetscape.” Mr. Zeller interjected I agree “but strike the no minimum lot size, that should be struck.”

A brief discussion followed with the members agreeing to require a minimum lot size in TND II to be 5,000 feet with 50 feet of frontage. Chair Vann concluded “so the sausage is made, is everyone happy enough?”

Mr. Hanlon interjected a question about the setback. He noted where there are existing buildings on either side of a project the setbacks are determined by an average of the setbacks but if there are no existing dwellings adjacent to the project any new dwelling shall be at least two feet but not more than twenty feet from the front property line. “It doesn’t mean anything.” Chair Vann replied “no it doesn’t.” Mr. Hanon asked “then why is it there?” Chair Vann replied “to make people feel better.” From the audience Francie Von Mertens interjected “it is not to make people feel better. It is by the recommendation of the Conservation Commission.”

*Procedure:* It was noted that single and two-family dwellings and two-lot subdivisions were permitted by right (subject to the provisions of the ordinance except for Paragraph E. (4) (b): *the height, scale and massing of the building, the sizing, orientation and spacing of doors and windows, and the shape and orientation of the rooflines shall reflect the other existing residences within 300 feet of the property in both directions on both sides of the street, as measured along the adjacent street frontage from the lot proposed for development. Should there be no residential building within 300 feet, traditional Peterborough forms shall be used.* “It is not fair for staff to make those determinations” said Chair Vann who then asked Ms. Ogilvie “has John (Ratigan, Town Attorney) looked at it and believes it is good?” Ms. Ogilvie replied “yes.”

A brief discussion about projects that require Conditional Use Permits, the finding required in TND I, and the requirement of making a determination of neighborhood compatibility of TND II followed.

In relation to the purpose and intent statements as a consideration for making the determination, Mr. Hanlon noted for the record he was in in love with the language. “I describe it as fluff” he said. Mr. Hanlon cautioned “some smart lawyer can twist this and then we would be on the defense of what we wrote” he said.

As the discussion of the purpose and intent statements of the ordinance continued, Ms. Chollet suggested ranking in descending order of importance the XXXX with auto independence last. “First would be creating opportunities for smaller houses” she said adding “I think Joe has a point, we may not have greater auto independence but it would still be wonderful for the Peterborough experience.”

Ms. Von Mertens interjected “what this town wants is smaller, affordable housing” adding “the questions is if this is going to get us what we want. Local housing needs are veiled” she concluded. Chair Vann replied “missing middle is not a term of art” with Ms. Von Mertens replying “a developer needs to know what you want.” Mr. Throop asked that any additional suggestions for neighborhood compatibility be emailed to him.

*Waivers:* The members agreed to remove the language of *carry out the spirit and intent of this ordinance* as it was redundant.

Mr. Throop noted he was more comfortable with the new draft. “It is stronger than it was” he said adding “one thing needed is something explicit about density. The ordinance talks about a minimum lot size of 5000 square feet, but it does not make any statement about our intent with respect to density.” Chair Vann replied “40%” with Mr. Throop replying back “that is lot coverage.” Chair Vann noted “if it implies *any* density it is not intended to do so.” When asked Mr. Carrara noted he was comfortable with the language “it is consistent with TND I.” Mr. Throop pointed out TND I was one unit per 5,000 square feet. “Here you can have up to four units with a 40% lot coverage.” Mr. Carrara replied “I am fine with the way it is.”

Mr. Throop told the members that smaller houses on smaller lots may not get to the affordability levels that are needed for workers making \$12 to \$13 per hour. “Lower wage workers may not have the funds needed or a down payment and may not qualify for a mortgage” he said adding “it will most likely be a 10-unit rental building that will make the housing affordable” he said.

Mr. Juengst told the members he wanted to make sure the Staff views were heard as well. Mr. Throop noted he had been working with Chair Vann and the Steering Committee and many of the staff’s issues were addressed in the changes being discussed this evening. “I will take a look at the final draft and let you know if there is anything else” he said.

Chair Vann concluded by asking the members to think about prioritizing changes and getting them to her by Wednesday so that the public notice could be posted Thursday.

Ms. Von Mertens reiterated a color-coded map showing potential parcels was necessary for understanding the reach of the overlay district. She noted much of the southern corridor was zoned commercial “so that may be out” adding “this is wide reaching and it would be helpful to have a map as part of the discussion.”

Mr. Holt told the members he felt a color-coded map may imply more land is being used than will be the case. A brief discussion about finding middle ground followed.

The meeting adjourned at 8:50 p.m.

Respectfully submitted,

Laura Norton  
Administrative Assistant