

**PLANNING BOARD**  
**Town of Peterborough, New Hampshire**

**Minutes of February 11, 2019**

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

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

Chair Holt called the workshop to order at 6:30 p.m. and introduced the Members and Staff.

**Minutes:**

*A motion was made/seconded (Holt/Zeller) to approve the Minutes of January 28, 2018 as written. The motion carried with all in favor.*

Chair Holt read the first case:

**Public Hearing – Boundary Line Adjustment:** GATO Properties LLC, owner of 59 Union Street, Parcel No. U024-021-000 and Joan Doherty owner of 57 Union Street, Parcel No. U024-022-000 are proposing to adjust a common boundary line. The effect of this adjustment will transfer 7.42 feet of frontage on Union Street and a total area of .013 acres (553 square feet) from U024-021-000 to U024-022-000. This boundary line adjustment resolves a boundary line dispute between the owners and enables the driveway serving Parcel U024-022-000 to be entirely on that parcel. The property owners have also agreed to extinguish an existing 19.11 ft wide common right-of-way between the two parcels as part of this agreement.

“Good Evening,” Chad Branon said as he stood and introduced himself as a Civil Engineer with Fieldstone Land Consultants, PLLC located in Milford, New Hampshire and representative for the applicant. He gave a brief overview of the ongoing boundary line dispute on the eastern side his client’s property line with abutter Joan Doherty. He told the Members, “working through legal counsel, we have determined a solution with a boundary line adjustment.”

Mr. Branon explained the transfer of land would make the north/south boundary to Unit #1 on his client’s property a straight line, and would slightly increase Ms. Doherty’s property while slightly decreasing his client’s. He also noted that in addressing and resolving this issue there was no longer a need for a right-of-way for the driveway, “so that will be extinguished with this proposal.” He concluded

that Ms. Doherty and her attorney had both signed the agreement and considered the issue resolved if the boundary line adjustment was approved.

Mr. Zeller noted that he'd seen vehicles belonging to Ms. Doherty's tenants parked on the GATO property for over a year. He wondered about human nature and the potential of an ongoing parking problem in the future. Mr. Branon pointed out the new boundary line and where the construction for Unit # 1 (on proposed lot #U024-021-000) will be. Andrew Prolman, attorney for the applicant, interjected, "the agreement we have with Ms. Doherty and her attorney includes planting hedges or shrubs or installing a fence along the property line for that very reason."

A motion was made/seconded (Vann/Zeller) to approve a Boundary Line Adjustment for GATO Properties LLC, owner of 59 Union Street, Parcel No. U024-021-000 and Joan Doherty owner of 57 Union Street, Parcel No. U024-022-000 and transfer 7.42 feet of frontage on Union Street and a total area of .013 acres (553 square feet) from U024-021-000 to U024-022-000. This boundary line adjustment extinguishes an existing 19.11 ft wide common right-of-way between the two parcels as part of the agreement. *The motion carried with all in favor.*

**Continuation of 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 original project proposed to remove an existing two-family home and subdivide the property into four (4) residential building lots under Zoning Ordinance Section 245-15.3 "Traditional Neighborhood Overlay Zone I". At the continued public hearing held on December 17, 2018, the Applicant showed modified plan that reduced the subdivision to three (3) lots by eliminating the single-family home of the northwest corner of the north parcel and replacing it with a duplex unit. A Conditional Use Permit is required under Section 245-15.3.

Mr. Branon once again introduced himself for the record. He told the Members, "we are before you to continue our dialogue on a three-lot Subdivision and Site Plan Review with the Traditional Neighborhood Overlay Zone I (TNOZ I)." He reminded the Members that when the applicant was before the Board in December they had presented a revised plan set for a (now) three-lot subdivision and a common driveway. He noted that comments and direction from the Board had been received at that time, "and we would like to walk through the modifications to the plan based on that feedback."

Mr. Branon began with the concern of reducing the impervious cover on the lot. "We have narrowed the driveway from 14 feet to 12 feet," he said. He went on to say, "the second item was the restructure of the location of the garages." As he

distributed a graphic of the proposed buildings, he pointed out the adjustments they had made for tandem parking, “also to minimize the impervious cover on the lot.” He briefly reviewed the lot coverage calculation telling the members, “we clearly fall within the 35% lot coverage in the General Residence District.” Mr. Branon went on to tell the Board the drainage design had been reviewed by OCD Staff, the Department of Public Works and the Town’s independent stormwater management consultant “and we have made adjustments to address their concerns. He said, “everyone is comfortable with the plan. There are a few minor issues that need to be addressed but we hope they will be handled as conditions of approval.”

Mr. Branon noted that the Board had requested architectural renderings. He distributed them while noting the applicant’s architect, Michael Petrovick of Catlin & Petrovick PC, was in the audience to answer any questions. He reviewed the first single family home’s design and layout, including a review of the elements the Board had requested at the December meeting. This included increasing the size of a covered porch on the front of the unit on Proposed Lot #U024-021-100 (at the intersection of Prospect and Union Streets). He noted the dimensional requirements of the district and that a waiver would be required for the encroachment into the front setback. He addressed an architectural bump out on the building that was originally designed to be a garage but was now a part of the home as well as issues with window placement and symmetry.

As he pointed to the lot with the duplex (Proposed Lot # U024-021-200), Mr. Branon noted, “the design of the duplex had not changed a lot at all.” He added that they did intend to tie the staircase and porch area into the area where the occupant will park (which was not depicted on the architectural design they viewed).

Pointing out the unit that would be closest to abutter Joan Doherty (Proposed Lot # U024-021-000) Mr. Branon reiterated the boundary line adjustment as well as the extinguishment of the existing 19.11-foot-wide common right-of-way between the two parcels. Mr. Zeller asked for clarification on the orientation of the building to Union Street and the location of the garage. Mr. Branon reviewed both and concluded by summarizing the efforts of the applicant to make revisions consistent with the wishes of the Board.

Citing Proposed Lot # U024-021-100 Ms. Vann spoke briefly about the connectivity of the homes to the street noting “you cannot get it with a four-foot porch, we are in vile agreement a 4-foot porch is not acceptable.” Ms. Vann also noted the porch on Proposed Lot # U024-021-000 was only six feet wide. “I would like to see more” she said, “eight feet would be good, ten feet would be better.”

She told the Members she had driven along Union Street and noticed the porches along the street were pretty deep. “That is the architectural vernacular, I would really like to see a ten-foot porch on Proposed Lot # U024-021-000.”

Mr. Throop cited the setback requirements of 245-14.3 (TNOZ I) with Mr. Petrovick noting the potential effects of the living space inside the residences in getting a porch 10 feet deep. After a brief discussion Ms. Vann agreed to 8-foot porch for each lot.

Mr. Throop cited 245-15.3 B. (Authority and Administration) regarding the waiver process. He read “the Board may attach reasonable conditions or waive or modify any of the requirements of this section if specific circumstances relative to the proposal indicate that the waiver will properly carry out the spirit and intent of the ordinance.”

A motion was made/seconded (Vann/Hanlon) to grant a waiver from the setback requirements of the TNOZ I to allow encroachment for porches, stairs and landings into the front setback so they may obtain an adequate depth of **eight** feet, ensuring conversation with the street consistent with the vernacular of the neighborhood. *The motion carried with all in favor.*

Ms. Vann asked about an approval of the shared driveway with the caveat that it is 20 feet in width as it meets the road. Mr. Throop interjected “I have a few more comments for the record” as he went on to note a table showing compliance with the TNOZ I Lot Coverage Standard be added to the plan; street addresses and separate parcel numbers be assigned to each of the units and the Utility Plan (currently showing the water and sewer lines next to each other) be revised to show a separation of 10 feet between the lines. Mr. Branon gave a brief explanation of their intent to provide a central water and sewer lines in from Prospect street, along the shared driveway that would provide service to all of the units. “It makes a lot of sense to come through the common driveway at this point” he said. Mr. Branon also noted while there are some outstanding issues that have been identified in the drainage report “we are all in agreement on what needs to be done.”

Mr. Throop added the Public Works Department raised the elevation of the slab on Proposed Lot # U024-021-100 to be above the drainage basin, the Shared Driveway Requirements (residences served, maintenance of a Right-of-Way, appropriate inspections, maintenance agreements with a deeded easement that clearly defines owner’s rights and responsibilities and proper house numbering) have been reviewed and cross-access easement language has been submitted to the

Town Attorney for review. “We want to make sure the easement language is clear on the maintenance requirements” he said, “and the plan will be revised to accommodate snow storage.” Mr. Throop told the Members one of the shared driveway requirements is that it may accommodate up to *three* residences. A waiver would be necessary to serve more than three residences as well as a waiver of the required 50-foot Right-of-Way along the driveway, in consultation with the Department of Public Works, Fire Department, Planning Board, and Office of Community Development.

Mr. Throop then asked about a landscape plan, which is not included in the current plan set. He suggested the Board request a suitable landscaping plan to include street trees, loaming and seeding, and any other landscaping deemed necessary for compatibility with the neighborhood. “Speak now or forever hold your peace,” he said. After a brief discussion, it was established that the plan had notes regarding inspections of erosion control measures and that the installation of stormwater management systems during construction will be performed by the Town’s stormwater management consultant. Mr. Branon assured the Members the lots would be loamed and seeded, hence a Landscape Plan was not required.

A motion was made/seconded (Vann/Carrara) to waive the shared driveway requirement of up to three residences. *The motion carried with all in favor.*

Ms. Vann also noted the plan currently showed the driveway width at 30 feet. “The width will be 20 feet,” she said.

Chair Holt asked if anyone in the audience had a question, comment or concern. Judith Paige introduced herself as an abutter and asked when construction might begin. Mr. Branon replied he was not sure, “but I suspect this spring when the weather is nicer.”

With no further input from the public Chair Holt closed the Public Hearing.

A motion was made/seconded (Vann/Hanlon) relating to a three-lot subdivision and construction of two single family homes and one two-family dwelling, all served by a shared driveway, proposed under Section 245-15.3 Traditional Neighborhood Overlay District Zone and shown on the following plan set:

**Subdivision and Site Plans, Residential Development**, Parcel No. U024-021-000, 59 Union Street, Dated May 15, 2017 last revised January 23, 2019, prepared for and land of, GATO Properties LLC, prepared by Fieldstone Land Consultants of Milford NH, plan to consist of 8 pages, as it may be revised.

The Board has reviewed the proposal for compliance with the minimum requirements set forth in 245-15.3E:

1. The proposed units will be served by Municipal water and sewer.
2. The applicant has adequately demonstrated that an existing two-family dwelling and garage on the property is in such a state of disrepair that rehabilitation is cost prohibitive.
3. The proposed two (2) single-family dwellings and the one (1) two-family building are on lots that meet the lot and yard standards in the General Residence District.
4. With a majority of the houses on Union Street block where the subject parcel is located having front setbacks ranging from 12 to 19 feet, the proposed front setbacks of 15 feet and side and rear setbacks from of 10 feet are consistent with the requirements of the Ordinance and in keeping with the character of the neighborhood and streetscapes.
5. Prior to issuance of the Conditional Use Permit, the final building designs will be revised to meet the following in a manner agreed to during the public hearing:

The height scale and massing of the building, the size orientation and spacing of the windows, and the shape and orientation of the rooflines reflects other existing residences within 300 feet of the property in both directions on both sides of the street. The buildings and primary entrance to the new buildings are oriented to the street. The location of garage doors is a minimum of 20 feet beyond the front façade of the building. Architectural features include porches, gable roofs, dormers, building details and materials that are consistent with traditional New England neighborhoods.

6. Proposed lot coverage on each lot is lower than the maximum lot coverage of 35% by impervious surfaces, excluding driveways and storm water is being infiltrated in a manner that meets standards set forth in Section 245-14 "Ground Water Protection Overlay Zone".
7. Parking and Driveways: A shared driveway is proposed to access all dwellings and all required parking spaces are located to the rear or side of the buildings, behind the front façades. A draft cross access easement has been submitted for review by the Town Attorney and will be signed and notarized prior to issuance of the Conditional Use Permit.

As such, the Board finds that the proposed building and site design will meet following minimum requirements set forth in 245-15.3E; and is compatible with the neighborhood taking into consideration the Traditional Neighborhood Overlay

Zone, and Site and Building Design Guidelines. The Planning Board hereby grants a Conditional Use Permit for this project subject to final approval of the architectural designs and receipt of a signed and notarized cross-access easement or another legal instrument as required by the Town Attorney. *The motion carried with all in favor.*

A motion was made/seconded (Vann/Zeller) to approve the shared driveway as shown on above referenced plan. *The motion carried with all in favor.*

A motion was made/seconded (Vann/Zeller) to approve the Subdivision and Site Plan Review with the following conditions:

1. All Stormwater Management comments shall be address to the satisfaction of the Board's Stormwater Consultant and the Community Development Director.
2. All comments from the Utilities Superintendent shall be address to the satisfaction of the Superintendent and the Community Development Director.
3. All other comments provided in an email from the Community Development Director to Fieldstone Land Consultants on February 8, 2019 shall be addressed to the satisfaction of the Community Development Director.

*The motion carried with all in favor.*

Before moving on the zoning workshop Mr. Ward thanked Mr. Branon for his and his client's time, patience and attention throughout the process. "I think you have a good project here," he said.

**Planning Board Workshop:** Mr. Throop told the Members he would walk them through the proposed zoning amendments for Town Meeting 2019. He noted the amendment itself was highlighted in gray with justifications for it printed below it. He noted they had begun with over 20 amendments and had whittled it down to 12. "You may decide to go further" he said, adding the public hearing for the amendments was scheduled for February 25<sup>th</sup>.

**Amendment A through Amendment I:** Modifications to 245-4 *Definitions* to add clarification to a definition, eliminate language that is no longer necessary to a definition and combine similar uses into a consolidated definition for consistency in application.

**Amendment J:** Amend 245-9.2. to modify permitted uses to clarify where outpatient substance abuse treatment facilities are permitted.

**Amendment K:** Amend 245-5 to clarify the existing application of the term *Lot size determination*. After a brief discussion and with Mr. Throop's advice the Members agreed not to pursue this amendment and withdraw it.

**Amendment L:** Amend 245-7 General Residence District and 245-8 Rural District to eliminate the requirement for obtaining a Special Exception for siting a religious institution (church) in these districts. As a result, *Religious Institutions* will be a permitted use. This amendment will also bring the Zoning Ordinance into compliance with Federal Law.

**Amendment M:** Amend 245-14 Groundwater Protection Overlay Zone to clarify that the impervious surface standards apply to all developments in the Overlay Zone regardless of the type of use (and) **Amendment N:** Amend 245-15 Wetlands Protection Overlay Zone to improve protection of the Overlay Zone by limiting the siting of Stormwater Management Systems in the Overlay Zone to those that meet the Conditional Use Permit Requirements.

Mr. Throop reviewed the Application Procedures of 233-52 *Conditional Use Permits for uses within the Wetland Protection Overlay Zone*, specifically the Performance Standards of no net loss of buffer functionality, stormwater management, low impact development techniques, and mitigation. "Avoid and minimize are important words [as compared to the language of maximum extent practicable]," said Mr. Throop. The Members agreed it was important at the initial meeting with a developer to get those words out front and center. The Members wordsmithed a bit before moving on. From the audience, Francie Von Mertens of the Conservation Commission said, "thank you, that was a nice coming together."

**Amendment O:** Amend 245-24-6 Workforce Housing to clarify that multi-family workforce housing (as defined in RSA 674:58 II) is permitted in any district that permits multi-family housing *and* the Rural District (with no more than one such building permitted per lot in the Rural District). This amendment clarifies where multi-family workforce housing is permitted so that it is consistent with districts where multi-family housing is a permitted use. It also eliminates the conditional use criteria which has been difficult to objectively demonstrate and adds a reasonable standard that is currently missing in the existing ordinance.

**Amendment P:** Amend 245-11.2 Retirement Community District by eliminating the requirement of a Special Exception for siting commercial establishments that are limited in scope and intended to serve the needs of the residents. This amendment will simplify accessory uses that meet the preestablished criteria.

**Amendment Q:** Amend 245-41 Conditions for appeals and Criteria for Special Exceptions by modifying the title and replacing the content entirely with new Criteria for Special Exceptions.

After review and discussion of the new language, the Members decided to continue the discussion on the amendment for further review.

**Amendment R:** Amend 245-42 Duration of approval by eliminating language in Paragraph A with language that is consistent with RSA 674-33. The purpose here is to clarify the language, the proposed amendment does not modify the existing tow year duration of approval.

**Amendment S:** Amend sections of 245-11.1. C. (Office District) and 245-20 (Maximum Height) to make the application of the criteria explicit.

After a brief discussion, the Members agreed to withdraw this amendment in an effort to reduce the number of amendments for 2019.

In closing, Mr. Throop noted the schedule for upcoming Workshops and the Public Hearing for the zoning amendments.

Mr. Ward noted that Scott Bradford, Recycling Center Director, has reported there is no longer any revenue for mixed paper. Mr. Ward asked about receiving future case packets electronically. A brief discussion followed with some Members for it and some against, depending on how they review their material. Mr. Throop noted the Office of Community Development would do its best to minimize paper documents in the future.

**Other Business:**

Ms. Vann gave the Members a brief update of her upcoming legislative bill, which proposes the adoption of a model ordinance that would be optional for New Hampshire municipalities to aid in constraining formula businesses. She noted that it was before the Commerce and Consumer Affairs Committee but was not sure of its fate because of a lack of understanding of why anyone should care and some ill-informed opposition.

The meeting adjourned at 8:20 p.m.

**Next Meeting:** February 25, 2019

Respectfully submitted,

Laura Norton, Administrative Assistant