

PLANNING BOARD

TOWN OF PETERBOPROUGH, NH

Minutes of March 12, 2018

Members Present: Chair Ivy Vann, Alan Zeller, Bob Holt, Ed Juengst, Jerry Galus, Andrea Cadwell and Dario Carrara

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

Chair Vann called the meeting to order noting “this is a regularly scheduled meeting of the Planning Board for March and is the last public hearing for zoning changes before we move the amendments to ballot.” Chair Vann then introduced the members and staff, reviewed the order of business and explained how the meeting would be managed (much like a session at the State House where individuals may speak once on the subject with a limit of five minutes each). She noted the Board would take comments then close the hearing and deliberate whether or not to make changes. Chair Vann also noted two upcoming dates (April 14th and April 16th, 2018) for meetings dedicated as informational sessions on the proposed amendments and concluded “for most people the zoning changes will make absolutely no difference to you.”

Minutes:

A motion was made/seconded (Zeller/Carrara) to approve the Minutes of February 12, 2018 as written with all in favor.

A motion was made/seconded (Zeller/Carrara) to approve the minutes of February 19, 2018 as written with all in favor.

Before the public hearing on ADUs began Chair Vann appointed Alternates Mr. Carrara and Ms. Cadwell to sit.

Public Hearing on a draft Zoning Amendment: Accessory Dwelling Units (ADUs):

Section 245-24.1 - The purpose of this proposed amendment is to eliminate the requirement of owner occupancy for Accessory Dwelling Units and ensure minimum parking requirements are consistent with other sections of the Zoning

Ordinance. This amendment was originally in the Proposed Zoning Simplification Amendment and has been separated into its own proposed amendment.

Chair Vann noted (currently) either the principal or the accessory dwelling unit must be occupied by the owner of the property. “The problem with that is knowing *who* is doing the use and knowing if the use is legal. That is a major problem.” She went on to say “it is like if you have to read the sign to see if it is legal then the sign ordinance is illegal” adding “and we allow duplexes in every district ADUs are allowed, so how do we know who is living in an ADU *or* an apartment *or* a duplex *or* a rented house?” Chair Vann reiterated the discussion about the owner occupancy when the bill was on the House floor in Concord. “I was there when that bit of sausage was made” she said adding “those who wrote the bill preferred not to require it, but owner occupancy as an option was a way to ensure the statute passed.” She read the Accessory Dwelling Unit definition and said “It creates two classes of renter and makes it difficult for the Code Officer.” Chair Vann then opened the public hearing to the audience reminding them of the five-minute limitation on comments. “We’ll give a warning at the 4-minute mark so plan ahead” she said.

JoAnne Carr introduced herself and agreed the current code was too restrictive noting “but I feel the entirety of the new code goes way too far” she said. Noting the spirit of the legislation (allowing mixed use occupancy, elderly downsizing, growing young families) “ADUs are intended to be an accessory use for a single family home.” “Thank you so much” replied Chair Vann.

Ryan Griffiths introduced himself and told the Board “personally I do not support the amendment. Citing the many places he had lived, he told the members he picked Peterborough for a reason. He also cautioned the Board on slashing the minimum parking requirements. He noted the town was walkable and safe noting “you do away with parking requirements I see problems.” “Thank you so much” replied Chair Vann.

Francie Von Mertens introduced herself and cited a New Hampshire Municipal Association Booklet on ADUs. She noted many purposes (single mothers, low income earners, seniors) of ADUs and cited her own intention to eventually create a garage apartment for a senior care giver for her and her husband as they get older. She also noted an apples to oranges comparison when discussing ADUs and Duplexes (“duplexes are full standing units” she said) adding “I don’t see the logic there.” Ms. Von Mertens asked how many other towns had voted in a non-owner occupancy clause. “I couldn’t find any” she said. She concluded by noting the

bulletin she referred to “says owner occupancy requirements are definitely recommended to avoid turning properties into absentee landlord situations.” “Thank you so much” replied Chair Vann.

Sarah Stenberg introduced herself and told the audience “People who are comfortable with two classes of renters is disturbing to me on a deep level.” She noted she had been to many of the public workshops “and I am concerned people are comfortable with this.” She also noted future intentions to rent her house while she and her husband travelled and noted many people cannot afford duplexes and need smaller, less expensive apartments. “A single mother with an infant can easily move into a 600-square foot dwelling” she said. “Thank you so much” replied Chair Vann.

When Mr. Griffiths attempted to speak a second time Chair Vann reminded him of the floor rules. From the audience was heard “are you shutting down testimony?” Chair Vann replied “no this is how the floor is run in Concord” with Ms. Carr replying “this is not Concord, this is Peterborough.” Chair Vann continued with “I believe I saw a hand in the back. Ms. Carr replied “you did but you shut me down.” “Thank you so much” replied Chair Vann.

Loretta Laurenitis introduced herself telling the Board she was in favor of keeping owner occupancy for ADUs. Ms. Laurenitis noted her concern of dividing property for rentals noting she had seen homes sold and renovated into rentals “taking a single-family house off the market.”

Ms. Laurenitis continued, “accessory has a specific meaning, it is not primary.” She went on to read the definition of accessory dwelling units from (RSA 674:71) “which means a residential living unit that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, including provision for sleeping, eating, cooking and sanitation on the same parcel of land as the principal dwelling unit it accompanies” adding “they distinguish the difference between ADUs and duplexes definitions. I would like to see ADUs owner occupied.” “Thank you so much” replied Chair Vann.

Kate Coon introduced herself and thanked Ms. Laurenitis for clarifying the definitions. She also pointed out many people have big homes where an ADU could be created for additional income. “Owner occupancy seems incredibly restrictive to me” she said as she asked for additional clarification on the amendment.

Chair Vann reviewed the language of the amendment and clarified that currently an ADU can be rented by anyone as long as the owner resided on premises in the

other unit (primary or secondary dwellings). She told the audience an ADU can be no larger than 750 square feet or 30% of the gross living area of the principal dwelling, whichever is greater, with no more than three bedrooms. She concluded by noting “all districts allow duplexes with two non-related sets of people living under the same roof. “With the big unit/little unit, that creates two classes of renters” she said.

Stephanie Hurley introduced herself and told the members she was not against having two unrelated tenants living in primary and accessory units “but I am concerned about parking.” Ms. Hurley noted the potential of streets tuning into parking lots. “That is dangerous and it really concerns me” she said adding “and given the size requirements there should not be more than two or three people living in an ADU with a minimum of two parking spaces.” “Thank you so much” replied Chair Vann.

Sharon Monahan introduced herself and reiterated the intent of an ADU legislation is to create affordable housing for the elderly and young families. She told the audience appraisals for duplexes and ADUs differed and that duplexes rented for profit had to meet certain codes (other than standard building codes) that ADUs did not. She concluded by noting “Owner occupied ADUs create affordable housing and fulfill housing needs for people.” “Thank you so much” replied Chair Vann.

Seth Chatfield introduced himself and asked “how will an older person be able to hold on to their home if they need assisted care?” He noted those without family members in the area or even in the state could not have family able to assume occupancy if the elder had to leave their home for an extended time. He went on to say “they won’t be able to unless we pass something like this.” Mr. Chatfield also mentioned a focus on the needs of families earning low wages. “We have a lot of low wage jobs in Peterborough, where are these people going to live?” he asked adding “I have asked this before and one answer I got was for them to move to Nashua where work force housing already exists. Is *that* the kind of town we want to be?” “Thank you so much” replied Chair Vann.

Libby Reinhardt introduced herself saying she was new to the conversation and was very confused. Chair Vann took a moment and explained the big house, little house on the same parcel of land intent. “You can live in the big house and have a caretaker or single mother rent and live in the small house. They do not have to be related to you. You live in one unit and rent the other unit but you may not currently rent both.”

Cathy Lanigan introduced herself and asked “how many ADUs do we have today?” adding “and are they enforced? Because people are doing that today.” She reiterated what several members of the audience had already, “people should be allowed to rent their out homes however they want to allow them to keep them for whatever reason.” She concluded by noting she has a big home and has considered creating an ADU in her home as she sees the tax rates increase. “Thank you so much” replied Chair Vann.

From the audience a gentleman stood and said his home was his primary asset and this was a realistic alternative to keeping that asset if he or his wife had to go into assisted living. “Thank you so much” replied Chair Vann.

Liz Thomas introduced herself and asked what the gain was to having owner occupied ADUs and a brief discussion followed. Chair Vann interjected “Thank you so much, Liz” adding “that is it. We have a full agenda tonight.”

Board Discussion:

Chair Vann reviewed the concerns expressed by the audience (including *parking, affordability (housing the young, old and infirm), property appraisals, current rental situations and enforcement*).

Chair Vann noted “the question for the Board, now that we have taken comment, is do we want to make any changes to the ADU amendment at this time? If not, I am willing to accept a motion.”

A motion was made/seconded (Holt/Cadwell) to move the zoning amendment to eliminate the owner occupancy requirement for Accessory Dwelling Units (ADUs) as written to Ballot with all in favor.

Public Hearing on a draft Zoning Amendment: Zoning Simplification – Articles I, II, III, V, XI, and XII. *The purpose of this proposed amendment is to repeal the existing residential, commercial, office, and mixed-use zoning districts and the Traditional Neighborhood Overlay Zones and replace these districts with new districts and regulations that integrate existing uses and standards into simplified residential and mixed-use districts. The ordinance also adds a set of “Building Types and Standards” with the intent of replicating the look and feel of Peterborough. It also revises and integrates minimum parking standards into the district standards and relocates other parking requirements and regulations to Chapter 233 Site Plan Review. A new Zoning Map has been created that assigns each parcel a single zoning district, eliminating confusion for hundreds of parcels now located in two or more zoning districts. Many parcels that have previously*

non-conforming lot sizes will be assigned to new districts so that the lots will be conforming.

Chair Vann began with a brief history on “how we got here and what this zoning amendment actually does.” She reviewed the adoption of zoning in the early 1970s noting it was very suburban in character. “Adopting zoning made quite a number of neighborhoods nonconforming” she said as she reviewed the numerous overlay districts laid on top of zoning over the past 48 years. “It is time to clear the slate and apply things fairly” she said. Chair Vann mentioned the subcommittee consisting of herself, Mr. Throop, Mr. Holt and Karen Fitzgerald. “We met weekly throughout last July, August and September and sponsored many public workshops on how to create clear and equitable zoning. She went on to tell the audience “this started with West Peterborough and has been developing for the last twelve years.”

Chair Vann then explained the five new Transect Districts of the zoning amendment (*T-2 Rural, T-3 Village Edge, T-4 Residential, T-5 Village and T-5 Town Center* as well as *Allowed Building Types by District*). When she was done she told the audience “In many instances the rules do not change. This is known as Form Based Code.” She noted the Business/Industry District, Commerce Park District and Retirement Community District did not change at all *and* that the Overlay Districts having to do with environmental protection have not changed. “This amendment is clear, fair and efficient” she said as she opened the hearing to the public.

Before recognizing anyone in the audience Mr. Jeungst noted informational sessions had been scheduled and the public would have ample opportunity to ask questions about the ordinance. Chair Vann added “that is absolutely correct, our goal is to hear any comments that may give cause to change in the ordinance. That is what we want to hear tonight.”

Ms. Monahan stood and introduced herself. She looked to the Board and told them she’d like to read a letter she had composed, “I have timed it and it takes 7 minutes to read: she said. “You will have to shorten it up a bit then” replied Chair Vann. Ms. Monahan pointed out several reasons she thought the new zoning proposal was not ready for the Ballot.

At the 5-minute time allowance Ms. Monahan was told her time was up. From the audience Don Selby stood, introduced himself and said “I would like to donate my 5 minutes to Sharon to finish.” Ms. Monahan was granted an additional 5 minutes and finished reading her letter. A copy of her letter is embedded at the end of these Minutes.

As Mark Fernald walked to the front of the audience to speak it was determined he was not a resident of town (but) was a property owner in town and was permitted to proceed. Mr. Fernald noted concerns about reduced residential setbacks and the potential for the construction of a “honking big garage built right beside you.” Mr. Fernald went on to point out what he considered deficits in the Traditional Neighborhood Design Overlays (specifically the allowance of 8 units per acre). He told the members if the amendment was adopted “people are going to go bananas” adding “there is bad zoning or there is no zoning. This is *bad* zoning.” “Thank you so much” replied Chair Vann.

Mr. Chatfield introduced himself and told the audience “I see the future of Peterborough consisting only of people who can afford single family homes, that is what is being broadcasted tonight” adding “we are basically saying to people who want to live here *if you can't afford a single family home, sorry find somewhere else to live.*”

Carol Kraus stood and introduced herself. She told the audience she was in favor of the amendment. “I modernizes the town with more opportunities for housing” she said. Ms. Kraus also thanked Chair Vann and the Board for their hard work and the numerous public hearing and workshops offered for public information and education.

Ms. Laurenitis stood and introduced herself. “I have a number of things” she said adding “and I don’t think the amendment should move to Ballot.” She noted several variations of the draft amendment “ranging from 147 to 150 to 50 pages.” She told the members she has been a member of the Zoning Board of Adjustment for the past 14 years “and I don’t see it, I am not convinced.” Ms. Laurenitis pointed out several discrepancies in Article II and noted Commerce Park and Business/Industrial Districts had been done away with. She concluded by noting concerns about the creation of nonconforming lots, garage placement of properties, parking, street standards, Open Space Residential Development and missing definitions. “Thank you so much” replied Chair Vann.

Ms. Hurley introduced herself and told the audience “I am not against infill. I see it as important to the town but it must be done correctly.” She thanked Ms. Monahan and Ms. Laurenitis for the information they provided and suggested the ordinance needed more time. “It needs to be vetted thoroughly, give it more time by voting no.” “Thank you so much” replied Chair Vann.

Kate Koon stood and introduced herself. She noted she had attended the workshops and had learned a lot. She spoke briefly about her house and her district, new

dimensional requirements (“I will have to read more about setbacks” she said) and told the audience she thought the amendment was ready to be moved the ballot. “Thank you so much” replied Chair Vann.

Chair Vann briefly reviewed and addressed what she’d heard as major concerns from the audience (fabric of the neighborhoods, complete streets standards, building types, parking standards, dimensional requirements, vehicle and pedestrian traffic, and traffic calming). She also briefly reviewed the Transect District of the new form based code. Chair Vann reiterated no changes to the Rural, Retirement Community, Business/Industrial and Commerce Park Districts.

When asked about the development of larger retail opportunities Chair Vann cited an Urban Planning Consultant’s philosophy on the successful development of commercial property. She cited several percentages of numbers of household or residents required to sustain large commercial endeavors. For example, she noted a town the size of Peterborough (6200 residents) could sustain 50,000 to 70,000 square feet of retail and said “my sense is that we are not going to attract much more retail than we have. You can build retail but not a Walmart, it is too big to be sustained.” Mr. Carrara added “West Peterborough is a good example, we have not seen the feared development there.” Mr. Holt interjected “I think there is a misconception” as he went on to explain that when no changes are expressed in a particular district, it means the rules exist already. He urged the public to attend the informational session scheduled for April.

Mr. Throop concluded by telling the Board and audience the draft proposal had been reviewed by Town Attorney John Ratigan.

A motion was made/seconded (Holt/Cadwell) to move the zoning amendment Zoning Simplification, Articles I, II, III, V, XI and XII as written to ballot with all in favor.

Public Hearing on Solar Energy Systems - *The purpose of this proposed amendment is to add a new section that establishes permitted uses, standards, and regulatory review requirements for solar energy systems.*

Chair Vann began by saying “it is important a town believes in renewable energy like solar and this ordinance makes it clear *that* is what we think. We have to make it clear it is permitted and *how* it is permitted.”

Mr. Throop gave a brief synopsis of the genesis of the ordinance (a conceptual plan for a possible 20-megawatt solar array in Peterborough that would consist of clear cutting and stumping over 100 acres for a standalone use, on a single parcel, feeding it back to the grid for a commercial use). He went on to tell the audience he’d reviewed the current ordinance and did not believe the zoning ordinance

permitted a project of this type and scale. He noted this had prompted the formation of a work group which included members of the town's Ad hoc Energy Committee, representatives of the Conservation Committee and town Staff. "A number of the groups participants are in the audience tonight" he said adding "this group conducted research into the use, met with solar professionals, reviewed ordinances from other towns and a state model ordinance, and assisted in creating in drafting and editing the proposed ordinance that is the subject of the public hearing."

Mr. Throop briefly reviewed solar energy systems (rooftop or building mounted, freestanding, single family, duplex and multi-family residential or nonresidential and municipal), their potential visual effects on abutters and the possible need for screening. "Rooftop systems are allowed everywhere" he said. Mr. Throop also reviewed standalone and community systems, kilowatt allowances and the requirement of a Special Exception for pole systems over 12 feet in height on a rooftop. "All systems require the issuance of a building permit and compliance with relevant building and fire codes and site plan review for ground mounted systems associated with non-residential uses, multi-family uses and solar as a principal use of a property" he said. Mr. Throop added "accessory systems are designed to balance energy generation with the projected energy needs of the residential use", adding "and energy generation shall not exceed 50 Kilowatts (kW) in the Rural District (proposed T-2) and 25 kW DC in other permitted residential districts (proposed T-3 Village Edge and T-4 Residential) and the maximum level of energy generation for accessory generation related to a nonresidential or multi-unit residential systems is 300 kW DC." He also indicated that the size of a standalone systems as a principal use on a property cannot exceed 1MW.

Chair Vann read from the ballot "*245-24.7 Solar Energy Systems* establishes permitted uses, standards and regulatory review requirements for solar energy systems." She then reiterated "this is a permissive ordinance, if it doesn't tell you (you) can do it, you can't. We want to make it clear you can do solar and we encourage it." Energy Committee member Joel Huberman thanked the Board and said "we think we are unanimous on this ordinance and that tonight is just the first step, it is a work in progress and that in the future larger than 1 megawatt systems (with proper protections) will be encouraged." "This is a great first step" replied Chair Vann.

Mr. Zeller voiced some concern about site selections and visual impacts to residential neighborhoods. Chair Vann reviewed the uses by district and addressed

abandonment and decommissioning of systems as well. She reiterated the requirements of a Building Permit and Site Plan Review in certain districts as well as contour and vegetation differences in site selections and concluded “but we cannot write regulations to address every set of circumstances.”

Mr. Galus interjected single family houses may install solar systems by right, without Site Plan Review. Mr. Throop replied “people can do that today if it is an accessory use.” “And it would be” added Chair Vann and a brief discussion on site specific current solar systems in town followed.

A motion was made/seconded (Zeller/Juengst) to move the Solar Energy System Zoning Amendment as written to Ballot with all in favor.

Other Business: Zoning Amendment Informational Sessions:

Saturday, April 14 at 10:00 a.m. at the Peterborough Community Theatre

Monday, April 16, 2018 at 6:30 p.m. in the Town House

Next Meeting:

March 26, 2018 at 6:30 p.m. at the Town House.

The meeting adjourned at 9:35 p.m.

Respectfully submitted,

Laura Norton,

Administrative Assistant
