

PLANNING BOARD

TOWN OF PETERBOROUGH, NH

Minutes of March 14, 2016

Members Present: Chair Ivy Vann, Alan Zeller, Joe Hanlon, Jerry Galus, Matt Waitkins, Ed Jeungst, Rich Clark and Bob Holt

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

Chair Vann called the Workshop to order at 6:30 p.m. She began by introducing the members and staff and appointed Mr. Holt to sit. A brief discussion of whose term was coming to an end followed and it was determined that Vice Chairman Tom Weeks seat needed to be filled and that Mr. Galus' term was up in 2016. Mr. Holt was asked to fill Mr. Week's term and Mr. Galus agreed to run for a second term. Mr. Throop noted the importance of having the alternates fill in and run for vacant positions to maintain the continuity of the Board and reminded them of the filing window of March 23rd to April 1st in the Town Clerk's Office.

A motion was made/seconded (Hanlon/Zeller) to appoint Bob Holt to fill Mr. Weeks' seat on the Board with all in favor.

Minutes:

A motion was made/seconded (Zeller/Hanlon) to accept the Minutes of February 8, 2016, February 17, 2106 and February 29, 2016 as written with all in favor.

Public Workshop – Proposed Amendments to the Zoning Ordinance:

Amend the definition of Bed and Breakfast and allow the use by Conditional Use Permit in the Rural District, Family District, and General Residence District.
(This is a public workshop to consider proposed changes to the amendment following the first public hearing).

Chair Vann noted the language added to the original proposed amendment appears in italics. She further noted that the revisions distinguished Bed & Breakfast establishments (now defined as 1-12 rooms serving only a morning breakfast meal) from bedrooms available for overnight farm stays associated with Agricultural Business Enterprise Uses (1-6 guest rooms with three meals provided.)

Chair Vann reviewed the *Criteria* to be evaluated by the Planning Board prior to issuing a Conditional Use Permit (compatibility, aesthetics and nuisances) and the *Standards* to be applied to all B&B Establishments: single-family dwelling, limited to 12 guest bedrooms, adequate provisions for water and sewer, parking requirements, visibility and screening, a morning meal, all projects subject to Site Plan Review by the Planning Board, compliance with all state regulations and permitting requirements, and compliance with all applicable building and life safety codes.

Mr. Galus asked about double occupancy in the guest rooms with Chair Vann replying “we increased the number of guest bedrooms to twelve and dropped the double occupancy.”

Mr. Juengst added “twelve bedrooms is pretty big and out of character for many neighborhoods.” Chair Vann agreed adding “these is a use within a single family dwelling and there are relatively few places in the General Residence District that are big enough to accommodate 12 guest rooms, but there are more places in the Rural District.” Chair Vann went on to review visibility, screening and parking requirements (1.2 spaces per unit) noting “we round down so that would be one extra parking space for five bedrooms, two extra spaces for ten bedrooms and so on.” She concluded by noting “that is what we are proposing based on comments we heard at last week’s meeting” and asked “is everyone happy and willing to move the amendment to the public hearing on March 21st?”

A very brief discussion about Tourist Houses followed with Mr. Hanlon noting he regretting taking it off their list. “One and two room rentals are allowed by right” he said adding “so the question is *do they constitute a burden to the neighborhood* but the real issue is the Meals and Room tax. That is the sticking point.” Chair Vann replied “it is an interesting question but we are not proposing that this is something we can solve.”

A motion was made/seconded (Zeller/Hanlon) to move the amendment to the Public Hearing March 21, 2016 at 6:30 p.m. with all in favor.

Chair Vann noted the rest of the amendments were housekeeping items. Mr. Throop noted he had made some very minor changes in the amendments, noting “what you have is the most up to date.”

Amend Section 245-2 “Applicability” to make it clear that if any provision of the Zoning Ordinance is declared to be invalid by a final court decision, the validity of the Ordinance as a whole shall not be affected.

“This is about severability” said Mr. Throop.

Amend Section 245-4 “Definitions” to add definitions of “Duplex”, “Impervious Cover”, and “Subdivision.”

Chair Vann said clarification of the definitions was important, noting “gravel is not always pervious (compressed gravel may be impervious) much like a roof is not necessarily impervious (a green roof absorbing the storm water is pervious.) Mr. Throop noted “Duplex” is now defined as a two-family dwelling and that while there was a definition of “subdivision” in Chapter 237 *Subdivision Regulations* “there is not one in the zoning ordinance.”

Amend Section 245-5 “Districts Established” to clarify that condominium developments and conversions are required to demonstrate compliance with the zoning ordinance and are subject to applicable Subdivision and Site Plan Regulations and reviews.

Mr. Throop noted this amendment would require condominium and condominium conversion to meet the zoning requirements of the district in which they are located.

Amend Section 245-6 “Family District” to clarify that minimum lot size standards also apply to conversion of an existing single family home to a two family home.

“This has to do with the minimum lot size in the Family District” with Mr. Throop adding “the ordinance talks about new construction requirements of 40,000 square feet for a single-family and 50,000 square feet for a two-family structure but it does not address conversion so this is really a matter of clarifying the language in a way that is consistent with how it has been interpreted in the past.”

Amend Section 245-14A “Ground Water Protection Overlay District” to clarify definition of impervious surface.

“This just lends clarification to the definition” said Mr. Throop

Amend Section 245-15K “Wetlands Protection Overlay District” to add “Restoration of a previously disturbed area within the District” as a permitted use subject to Conditional Use Permit.

Mr. Hanlon asked about the state regulations and the brief discussion that followed included municipal regulations over and above the state’s wetland and buffer restrictions and the fact that wetland and wetland buffer definitions are often

misunderstood. “Not doing anything (disturbance) in the buffer is what makes it a buffer” said Chair Vann. It was noted that wetlands are governed by the state but if a buffer is going to be impacted a Conditional Use Permit must be obtained. “The bottom line is that we do not want to force an applicant to have to obtain a variance to restore a buffer” said Mr. Throop.

Amend Section 245-24.3.D.1.e “Wireless Communication Regulations” to correct RSA citation for regional notification requirements.

Chair Vann explained “the citation is wrong and we need to fix it.”

Amend Section 245-33.D.5 “Lighting and Glare” to add “LED” as an acceptable light source.

With no other questions Chair Vann concluded with the amendment of 245-26 on the Work Plan for 2017.

Amend Section 245-26 Open Space Residential Subdivision (Amendment for 2017)

“That is it” said Chair Vann and adding she would entertain a motion to move the housekeeping amendments to Public Hearing.

A motion was made/seconded (Hanlon/Zeller) to move the housekeeping amendments to Public Hearing March 21, 2016 at 6:30 p.m. with all in favor.

Workshop Discussion on Open Space Residential Development (OSRD):

Chair Vann began by noting “we have been talking about this for ten years” and went on to review the purpose of the ordinance as it was defined. “It is to encourage the non-destruction of the rural area in town. We have heard it over and over again from the public. They value the rural character of Peterborough.” She went on to note Mr. Clark had pointed out incremental development where you see house after house after house. “This is a suburban model that also creates a lot of infrastructure which ends up requiring the town to do maintenance. The purpose of the OSRD is *not* to do that.” Chair Vann noted her sense was not seeing house after house “rather protected vistas on rural roads or even grouped houses that are not necessarily seen from the road.” She also noted the preservation of undisturbed, contiguous open spaces “for habitat” she said “not tennis courts.” She told the members “the problem is right now we have a bunch of sticks and not sufficient carrots and this is a load of trouble for the developer.”

Chair Vann noted Mr. Clark's suggestion of making OSRD the default and rewriting it to provide more incentives. She went on to say "and require a Conditional Use Permit for the conventional subdivision where the developer would have to come in and make a case for a conventional subdivision."

Chair Vann then got up and went to the white board where she listed the goals of OSRD (protection and preservation of the rural character by clustering away from the road and tracts of habitat). She then listed the problems (road length, more impervious surfaces and a commitment to more driving, habitat division and the difficulty of creating a community with houses strung over 3-acre lots.) "It is harder to get to know your neighbors" she said.

Chair Vann looked around the room and asked "so what do we do?" She reminded them the last time they asked that question they'd brought out a giant map and identified several approaches to doing development in the Rural District ("or any district for that matter") to achieve their goals. She reminded the members about *big house little house, back house, barn* that were all connected as one model and the sense that it is one way to go forward using form-based code to fit the neighbors and fit into the neighborhood.

Chair Vann went on to note farmsteads, pocket neighborhoods and village green models as examples "much like the Stabile project being developed on Vine Street" she said. She also noted the model of Robbe Farm Road "it has topography to it, They kept mature trees and left boulders in place" she said adding "that is a real secret to doing higher density in the rural district, tucking the buildings into the topography for a more organic feel to the development." Mr. Throop interjected "another thing is going back to the notion of incentive" adding "it might make sense to start the developer off with bonus units, reward them for making that choice right off the bat." "Yes" replied Chair Vann "and the process is absolutely clear." She looked to Mr. Clark and asked "does that strike you as being fair" Mr. Clark replied "yes" and a brief discussion of how the ordinance has been seen as a *taking* as well as the potential for large tracts of land being split off as a series of minor subdivisions ("incremental development is one of the greatest challenges" said Mr. Throop) and land stewardship followed. Chair Vann reiterated the importance of a site visit for thinking through the process and how the project would work *before* the engineer is hired. "Lay out the plan and talk about what we saw, what we would like to see and go from there" she said.

Chair Vann then spoke briefly about form base code initiatives and incentives. "Obviously you start with one house and you go up from there" she said. Mr. Juengst asked about the formula with Chair Vann replying "for five you get one, for ten you get two and so on from there." Mr. Juengst asked "was Robbe Farm

Road done under this?” Mr. Throop replied “well yes, but with interpretation.” Mr. Juengst agreed noting “there is not 127 acres of land up there.” “We got lucky with Robbe Farm Road” interjected Chair Vann.

The members reviewed the current OSRD and discussed barriers to getting developers to use the ordinance. Chair Vann recalled the Global Montello application “where they had some drawings but had not engineered the site.” She went on to add “they went away and in a few days came back with more or less *“how about this?”* Which was what we had asked for.” Mr. Hanlon interjected “so it is like come and talk to us before you do anything, it sounds a bit controlling.” Mr. Juengst replied “well you don’t say it like that!”

Chair Vann suggested beginning the process with a site walk and design review with the Planning Board. Mr. Throop added “the OSRD offers possible solutions to the fragmentation of the land and perhaps the incremental nature of rural development.” Chair Vann added “it is also very expensive as you create more infrastructure a bit at a time, you don’t realize the overall cost to the community.” The members briefly discussed the Divine Mercy Church project and the 8-unit condominium project on Vine Street. “These are two examples of how to use this sort of site review” said Chair Vann with Mr. Throop adding “resulting in better site development because of it.” Mr. Throop went on to tell the members about three upcoming conversation he has schedule for possible projects. “No pen to paper yet” he said adding “I have just encouraged them to come in and talk, it does help them. It is not good to come in with full-blown designs only to find out the ordinance requires they put parking elsewhere.”

Chair Vann asked the members to think about an OSRD ordinance that incorporates a form based design approach. Mr. Clark replied “I am not sure about *big house little house* but if I owned one I would not tear it down.” Mr. Throop noted the goal of creating more affordable housing without affecting the character or common social fabric of the community. “This may be one reasonable way to approach that” he said.

Chair Vann reviewed the flexibility of the ordinance which provides reasonable opportunities for housing while maintaining a density compatible with the character of the Rural District. Mr. Throop suggested forming a small subcommittee to develop and model a new approach “to see if it produces what we want it to.” Chair Vann added “and maybe rewrite the conventional subdivision ordinance be allowed by Conditional Use Permit.” Mr. Clark immediately replied “you cannot do that at the same time.” A brief discussion followed with Mr. Throop noting that the Innovative Subdivision Design amendment had been seen as a *taking*. Mr. Galus noted the petition amendment that had the exact same

wording except for the fact it was *not* mandatory “also got voted down.” A brief discussion about the incentives section and other challenges as to what they were trying to accomplish followed. Chair Vann suggested sweetening the OSRD with incentives and continue by having those interested in conventional subdivision come in and make a case for it by applying for a Conditional Use Permit. Mr. Clark again noted his concerns with that approach. “Don’t do anything to the conventional subdivision ordinance” he said.

Chair Vann asked “what if with revised OSRD, they can get one to three extra lots by right so there is lots of incentive?” She went on to say “and later if it is working well people might see conventional subdivision is not working. You attract more flies with honey than vinegar is what my mother always used to say.”

Noting the dissenters of the amendment Mr. Juengst asked “why don’t we get them involved early on?” Mr. Clark replied “Not until the end do they have something to say” with Chair Vann adding “we invited them to come, they did not come.” Mr. Juengst asked “why not?” “They are busy not everyone thinks *this* is fun” replied Chair Vann with a smile. She went on to say “we know who they are, we will invite them early on” adding “and offer them dinner. Conversation before, after or during a meal is less confrontational” she said. Mr. Throop added “outreach and education, engaging in meaningful conversations is critical getting to a result that can be adopted. We need to provide the tools and resources to help people realize the process is not scary and is consistent with the values in the Master Plan.”

Mr. Clark reiterated the importance of introducing this amendment without altering the conventional subdivision regulation in any way. “Rich is right” interjected Mr. Waitkins, “you can’t do both at the same time.” Chair Vann acknowledged their comments and said “clearly, I am convinced I was wrong and they should not be done at the same time. These are two separate things.”

Other Business:

Scenic Roads –Notification of tree cutting to remove hazardous trees on Old Greenfield Rd. and Windy Row. Mr. Throop noted the town has been informed there are trees that are dead or dying and must be removed. “They are a hazard and need to be removed” he said adding “this recommendation has been delivered to the Board of Selectmen for a decision, and I am raising this with you now just so you are aware of it.”

Mr. Throop briefly reviewed an application for a grant from Plan New Hampshire that he, Chair Vann and former OCD Director Carol Ogilvie have been working on. “It is technical assistance grant to help towns develop new regulations to work

force housing solutions.” The grant covers developing a regulatory approach, public engagement and drafting an amendment to the Zoning Ordinance. He went on to note “we are proposing an approach for an overlay zone allowing the creation of a new village node” adding “this is an overlay to be used where particular conditions are met, including having water and sewer in place.” He concluded by noting “the deadline is April 4th and the focus is on a gravel pit in South Peterborough that is expected to be retired in the next few years and must be restored anyway.”

Next Meeting: Public Hearing March 21, 2016 at 6:30 p.m.

The meeting adjourned at 8:10 p.m.

Respectfully submitted,

Laura Norton

Administrative Assistant