

**PLANNING BOARD**  
**TOWN OF PETERBOPROUGH, NH**

Minutes of April 9, 2018

**Members Present:** Chair Ivy Vann, Alan Zeller, Bob Holt, Rich Clark, Joe Hanlon, Ed Juengst, Jerry Galus, 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 April” and introduced the Members and Staff. “We have a bunch of stuff on the agenda tonight with one public hearing and two preliminary/design reviews” she said adding “and I would like to explain how public hearings work.”

Chair Vann went on to note the process of a public hearing where the applicant presents their case followed by questions from the Board, opening the public hearing to the audience for questions and comments, closing the hearing and Board deliberation and decision. “We may make a decision about the subdivision tonight” she said, “but preliminary consultations - design reviews work differently.” She noted the preliminary/design reviews give an applicant a chance to come to the Board and see how we feel about their request in its current form and whether it needs work. “It gives the Board a chance to ask questions and give input before a final presentation. There is no harm, no foul, it is good for both sides” she said adding “applicants who come with engineered or architectural drawings have a minimal interest in making alterations, we like to have a conversation before we get to that point.”

**Minutes:**

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

Prior to the first case being read Chair Vann appointed Mr. Carrara to sit and Mr. Holt recused himself as an abutter to the first Applicant’s property. Mr. Carrara told the Board and audience he was also an abutter but did not wish to recuse himself unless the applicant, any member of the Board or the audience thought he should. Peter Mellon, representative and presenter for the Applicant had no objection and Chair Vann read the first case:

**Public Hearing** – A two lot subdivision of a 174.57-acre parcel owned by Lavinia Clay, located in the Family Zoning District, Parcel Number U004-001-000, located at 188 Old Street Road. The project proposes to create a 7.5-acre lot surrounding the “Second Burying Ground” cemetery owned by the Town of Peterborough, with 411.96 feet of frontage along Old Street Road on south side of the Town parcel and 585.02 feet of frontage on Old Street Road north of the Town parcel. The purpose of the subdivision is to create a proposed burial ground. The remainder lot will consist of 167.07 acres with 936.21 feet of frontage on Old Street Road. The applicant is requesting waivers of Planning Board Subdivision submission requirements, Section 237-14.B.18-21.

Mr. Throop briefly reviewed the requested waivers (237-14.B.18 *water courses, ponds, rock ledges stonewalls, etc.*, Section 237-14.B.19 *existing and proposed topographic contours*, Section 237-14.B.20 *soils and wetland delineation* and Section 237-14.B.21 *locations of percolation tests and test results*). He noted compliance with steep slopes and the Wetland Protection Overlay District be demonstrated and that if the waivers were granted a note should be added to the plan indicating all waived information be provided to demonstrate compliance with the Zoning Ordinances and Planning Board Regulations *prior* to the issuance of a Building Permit for a residential dwelling. Mr. Throop went on to point out there was currently no driveway access to the proposed lot from Old Street Road and that *prior* to the issuance of a Building Permit a Town Driveway Permit be required and a note be added to the plan indicating same. Finally, Mr. Throop pointed out steep slopes along the frontage (north to south) of the lot noting driveway access from the north frontage (slopes of 20% to over 35%) may not be possible. “Either way the applicant will have to demonstrate compliance with the Town’s Stormwater and Erosion Regulations (and again) and a note to this effect should be added to the plan *prior* to the Chair’s signature on the plan” he said. Chari Vann then asked the Applicant to present their case.

Peter Mellen stood and introduced himself as a licensed land surveyor and representative for Mrs. Clay. He pointed out the property lines on a graphic as well as the proposed 7.5-acre private burial ground off Old Street Road. He told the members there may be a monument erected and that ashes would be interred at the site. “The concept is that this will remain in the family. It would be conveyed to a trust and administered by her sons” he said. Mr. Mellen pointed out the drainage line and a utility easement. He noted “a driveway (which crosses the lot) will be constructed “so we will need an easement for that.”

From the audience the abutter from 260 Old Street Road asked about the tree line with Mr. Mellen noting some of the trees at the top of the lot may be cut but there were no plans to cut in the buffer between the applicant's and her property. Chair Vann then explained the process of how and when questions from the public are addressed.

Mr. Hanlon asked if there would be numerous tombstones on the lot with Mr. Mellen replying, "it is meant to be a family plot so *yes*, but they will be limited to a small area." Mr. Zeller asked for clarification on the utility easement and a brief review of conformance with both the current and proposed zoning ordinances followed. This included a discussion about the tennis court and the side setback, the definitions of building setback and property line setbacks as well as the meaning of "open and unoccupied" in a specific definition.

Mr. Throop reviewed the compliance to existing and proposed zoning regulations and noted that as drawn, setback requirements were not met in either ordinance because the tennis court was located within the side setback. He told the members that after Town Meeting and the determination of what zoning ordinance applied the applicant intended to apply for a Variance with the Zoning Board of Adjustment. Mr. Throop went on to suggest the Board accept the application as substantially complete and continue it to the May Planning Board meeting (scheduled after Town Meeting). "That is a really good idea" interjected Mr. Carrara adding "and that is what the Staff Report says as well." It was noted that should the applicant seek a Variance the Planning Board would continue their case once again to the June 11, 2018 meeting. Mr. Clark noted "this request does not fly under either ordinance, something has to change." Chair Vann replied "that is what we are telling them. They have all the parts to be substantially complete, but it doesn't work under either ordinance"

Mr. Throop suggested the Chair open the hearing to the public for any questions or concern before the vote to continue the hearing. "This will preserve the notice" he said adding "the public can speak, they will know about the continuance and can come back if the wish." Chair Vann agreed noting "once the town votes (on the zoning amendment) they can apply for a Variance or make an adjustment in their plan."

A brief discussion about any intent to construct a structure on the lot followed with Mr. Mellen noting the intent was to maintain the lot as a burial ground with a Trust

and Trustees to manage it. “The intent is not for it to be used for residential purposes” said Mr. Mellen.

When Mr. Hanlon asked about regulations on burial grounds Mr. Throop noted the regulations are pretty silent on them. He did quote RSA 289:3 *Location*: “All cemeteries and burial grounds shall be laid out in accordance with the following requirements: No cemetery shall be laid out within 100 feet of any dwelling house, schoolhouse or school lot, store or other place of business without the consent of the owner of the same, nor within 50 feet of a known source of water or the right of way of any classification of state highway. Existing cemeteries which are not in compliance with the above set-back requirements may be enlarged, provided that no portion of the enlargement is located any closer to the above-listed buildings, water sources or highways than the existing cemetery, and provided further that no such enlargement shall be located within 50 feet of any classification of state highway. Burials on private property, not in an established burial ground, shall comply with the above and local zoning regulations.”

A motion was made/seconded (Zeller/Hanlon) to accept the application for a two-lot subdivision of a 174.57-acre parcel owned by Lavinia Clay, located in the Family Zoning District, Parcel Number U004-001-000, located at 188 Old Street Road as substantially complete and to continue the hearing to a time and date certain of May 14, 2018 at 6:30 p.m. with all in favor.

Chair Vann then opened the case to the public.

Jim Janetos introduced himself as an abutter noting he had several questions. He noted “the primary point of this subdivision is to create a burial ground but why subdivide the lot? What is the purpose? Mr. Mellen replied Mrs. Clay was unsure of what may happen after she passes on and intended the lot as a family burial ground to be placed in trust. He told the audience the main house could be sold (in the future) but the burial ground would remain in the family. Mr. Janetos mentioned the potential development of a large subdivision if the Clay estate was sold with Chair Vann replying “yes, that is a possibility but that is not our conversation tonight.” A brief discussion about the 7.5 acres being held in perpetuity followed with the abutters agreeing no buildings or residential use on the lot was a positive thing.

Bernard LaBroad introduced himself as the abutter directly across from the main entrance at 205 Old Street Road. His concern was clearing for access and an exacerbation of a water runoff problem that exists for him today. Mr. Throop

assured him that a driveway permit was required, and the applicant must meet all the stormwater standards that have been established. “Any runoff would have to be managed” he said. Mr. LaBroad then asked about the wooded area directly across the street in front of his home. Mr. Throop noted the town had no jurisdiction over forestry matters and that if the applicant wanted to cut or clear the trees, they could in accordance with State law. Lastly Mr. LaBroad asked about any impact to the abutter’s taxes or property values. Chair Vann replied, “I am not empowered to answer that, but my layman’s reply would be it would not affect either one way or another.”

Phil McFarland introduced himself as an abutter. He noted the size of the burial ground would afford privacy and asked about any spillover into the town-owned cemetery located adjacent to the lot (there is none). Mr. McFarland also noted the line of sight and asked about any delineation with directional signs. Mr. Mellen replied, “you really cannot see it from the road and the entire property is posted.” Mr. Janetos asked about access to the area with Mr. Mellen noting the access would be from Old Street Road “because if the family ever sold the estate they would need a way to get in there.” A brief discussion about any concerns the town itself may have as an abutter followed. As the Selectman’s Liaison to the Planning Board Mr. Juengst did not feel the town had any objections. “I would have heard by now if they did” he said with a smile. He went on to note the subdivision was good for the town, separating and protecting the 7.5 acres. Chair Vann added “and it is a good buffer around the town cemetery.”

**Preliminary Consultation - Design Review:** Charles Cobb and The Cobbs at Noone Falls located at 50 Jaffrey Road, Parcel Numbers U020-024-000. The non-binding consultation will consider a proposal to develop a parking garage to serve the residential condominiums on the property. This property is located in the Commercial Zoning District.

Charles Cobb introduced himself as the owner of Noone Falls in South Peterborough. He briefly reviewed his approval for condominiums at that location and expressed his desire for covered garages for the units. Mr. Cobb pointed out the location of the garages on the south end of the lot on a projected graphic and said, “this is within the existing parking area and on the same footprint as the current parking.” In reviewing the setback regulations of both the current and proposed zoning ordinances Chair Vann noted “you are going to need a Variance under either.” A brief discussion about the principal facade of the building (facing

the road) followed with Chair Vann noting “it really depends on the vote in May to determine which sets of rules to go by.” Mr. Throop added “another issue was the building type.” Chair Vann agreed noting “the new code includes specific building types, I personally think this is a variant of the Carriage House Style, but the Board would have to agree with me.” After a brief discussion about building types and forms Chair Vann asked, “can I get a sense of the Board that this is a variant of a Carriage House?” The members unanimously agreed on the structure as a variant of the Carriage House form.

Chair Vann opened the hearing to the public. Ashley Saari introduced herself and asked how many garage bays were proposed. Chair Vann replied, “ten but two are doubles.” Libby Reinhardt introduced herself and noted the variant structure was much larger than the Carriage House form and suggested the structure was “really several carriage houses put together.”

When Mr. Cobb asked about his next course of action it was suggested he wait until the Townspeople had voted on the proposed zoning, come back for a Variance if the Form Based Code failed or Site Plan Review if it passed.

**Preliminary Consultation – Design Review:** 1810 Realty Group is seeking non-binding Design Review for a proposal to develop and operate a secure, independent, substance abuse treatment facility to be located at 25 and 30 Bridge Street, Parcel Numbers U021-003-000, U021-002-000 & U021-001-000 on property currently owned by Springfield Realty Corporation. The property is located in the Village Commercial Zoning District.

Jeff Kevan of TF Moran introduced himself as the representative and presenter for 1810 Realty Group. As he pointed out the lot and an easement off US Route 202 he told the members “this is a unique parcel and identifying the frontage of it is difficult because there is no actual street.” He went on to tell the members the structure was an Inn Style building, 100 feet wide by 120 feet long that would sit on the high side of the property. He went on to point out the natural terrain and slope of the lot to the parking area. “Our original thought was to put the parking to the side” he said adding “but we’d like to get your thoughts on it.” Chair Vann noted Inn Style building requires a continuous front porch. Referring to the graphic Mr. Kevan had projected she said, “I see what you are doing here but I am not convinced it meets the standards.” A brief discussion about the architectural and building type standards as well and the principal façade of the building followed. Chair Vann also suggested treating the driveway more like a street to help pull the

building forward and give less of a sense of a giant parking lot in front of the building.

Mr. Holt asked, “how many beds?” Mr. Kevan replied “64” and Chair Vann interjected “do we need that much parking?” Mr. Kevan reviewed the parking plan noting the formula of 2 spaces per 1000 feet (52 spots) “and we chose 41 spaces for employees and occasional visitors.” Chair Vann encouraged a decrease in the parking spaces. “Fewer would be better, that is a lot of asphalt. You are not required to have it and we prefer you did not” she said. A brief discussion about the greenspace (lawn) area followed before Mr. Clark asked about considering moving some of the material out to bring the site down a bit. “You are going to see it from the road” he said. Mr. Kevan noted he thought they could lower the parking lot which would drop the building and he’d mention it to his client. Chair Vann noted the Inn Building style allowed for a flat roof with parapet “you ought to think about that” she said and concluded by noting the screening requirements for the HVAC and related items. Mr. Throop reminded Mr. Kevan the entire parcel was in the Groundwater Protection Zone. “You’ll be obligated to infiltrate the stormwater associated with the structure” he said. “Reducing the parking lot will help you out with that” interjected Chair Vann as she opened the hearing up to the public.

Tracy Baran introduced herself as an attorney and General Counsel for Ocean State Job Lots, owner of the Peterborough Plaza. She noted her concern was protecting the traffic in the Plaza and the Plaza not being used as a cut-through to the facility. “We would like the opportunity to discuss this with the owner” she said. Mr. Kevan replied a meeting could be arranged but reassured her there would be little impact on traffic with the defined access at the west end of the Plaza between the Rite Aid and Dunkin Donuts (“where the Cops sit” interjected Mr. Clark) and that clients will not have access to vehicles.

Bill Reinhardt introduced himself and asked about the number of employees with Mr. Kevan replying “15 or so on day shift and less than that for other shifts.” Mr. Reinhardt replied, “that is what I was looking for.” With no additional questions or comments Chair Vann closed the preliminary discussion.

**Workshop:** Proposed Amendments to the Planning Board Regulations.

Chair Vann began by distributing Chapter 233 *Site Plan Regulations* for the Town of Peterborough to the members. She noted a review of the Design Standards and associated minor modifications. “We went through and did some housekeeping

management changes.” She also mentioned Parking and Screening Standards as well and went on to tell the members “these are your standards, not the Zoning Boards’ and you have a lot of latitude. It’s like you have an envelope and these are the ways you may dress it, and that includes no train wrecks and cottage courts not looking like a lollipop development.”

Chair Vann noted additional housekeeping changes in the parking and building design standards and some new street standards would be done separately in the future. She reiterated the Site Plan Regulations belong solely to the Planning Board “they are a wholly owned subsidiary” she said adding “ideally we’ll have a workshop on this soon, like next week so we can move this to public hearing.”

In closing Mr. Juengst clarified that the public information sessions scheduled for April 14<sup>th</sup> and April 16<sup>th</sup> were not public hearings, but indeed *informational sessions* for the public to come and learn about the proposed zoning amendments. Citing the numerous public hearings and well-advertised and well-executed workshops on the amendment in the past he expressed dismay when hearing negative comments. “It is disheartening to hear we did not do a good job with it” he said adding “I think people need to come and do some listening.” Chair Vann agreed and added a good example of the flexibility of the amendment was seen with the Board approving Mr. Cobb’s proposed garage building as a variant of the Carriage House building style.

**Other Business:**

Chair Vann encouraged as many members as possible to attend zoning amendment information sessions on Saturday, April 14<sup>th</sup> at 10:00 a.m. at the Peterborough Community Theatre and Monday, April 16<sup>th</sup> at 6:30 p.m. at the Peterborough Town House.

The meeting adjourned at 8:15 p.m.

Respectfully submitted,

Laura Norton

Administrative Assistant