

**PLANNING BOARD
TOWN OF PETERBOROUGH, New Hampshire**

Workshop Minutes of July 16, 2012

Members Present: Audrey Cass, Jerry Galus, Tom Weeks, Alan Zeller, Rich Clark and Barbara Miller.

Staff Present: Carol Ogilvie, Director Office of Community Development; Laura Norton, OCD Administrative Assistant

The Peterborough Planning Board held a Workshop on July 16, 2012 in the Selectmen's Meeting Room of the Town House. The Workshop was called to order at 5:45 p.m. by Ms. Ogilvie.

Review of Draft work Program dated May 18, 2012

Ms. Ogilvie briefly reviewed "who is where" with the zoning issues. She noted the Open Space Ordinance subcommittee consisted of Ms. Vann at the moment; Home Occupations Ordinance consisted of Ms. Miller, Mr. Zeller and Mr. Weeks and the Village Neighborhood Overlay Zone consisted of Ms. Vann, Ms. Cass and Mr. Clark. Ms. Ogilvie noted a Community Planning Grant funded by the New Hampshire Housing and Finance Authority had been awarded to the town adding "I question spending a lot of time on that one for right now. We will have a consultant come in and carry the public process." In response to that fact Mr. Clark noted he would switch to the Open Space Ordinance subcommittee. Reviewing the other zoning issues Ms. Ogilvie noted "I think these are the three top priorities. The others are just not as complicated, but I would never discourage anyone from working on them." A brief discussion of how the subcommittee process would work followed. It was noted that Ms. Ogilvie would initially attend the subcommittee meetings to give the members some context and background of the ordinance. She noted she would edit the ordinances as the subcommittees met and the drafts progressed.

Ms. Ogilvie then asked the members to consider a new night for Workshop sessions. She explained that Chair Monahan was unable to make the current third Monday meeting time due to a project he was involved with. "Please just think about it" she asked.

Ms. Miller asked about the Land Use Chapter of the Master Plan adding "I think we need to look at that chapter." The members briefly discussed the rash of public response to the Planning Board's approval of a Petition to allow retail establishments as a principle permitted use in Commerce Park. Mr. Clark said he saw it more as one (newspaper) editor "who spun it out of control" adding "the minute you say Market Basket people panic. He has a lot of power with the pen." The discussion about the Commerce Park that followed included the permitted principle and accessory uses allowed in that District. At one point Ms. Miller read out loud "manufacturing, processing and treatment" with Mr. Weeks replying "yes, but who is going to come to Peterborough to manufacture, process and treat? You cannot get here from anywhere" he said with a smile.

One member noted improvements that are being done at the old Gulf Gas Station and asked if the Board was going to see the Goohs application in August. Ms. Ogilvie gave a brief update of what

has transpired with the property. Mr. Weeks interjected “they have had it surveyed.” Mr. Galus noted “there is a sign up” with another member noting “and work is being done on the cupola.” Ms. Ogilvie noted some of the difficulties involved when the applicant must have owner approval for everything she does. Ms. Ogilvie noted the deadline for submission for the August meeting “is tomorrow, so we will see” adding “if a plan is submitted (her engineer) will make sure it is correct.”

The members again briefly discussed the Land Use Chapter of the Master Plan. Ms. Ogilvie noted that chapter definitely needs revisiting, “it is ten years old now” she added “the zoning petitions pointed out that things have changed in town and it is difficult to say what is and is not supported by the Master Plan.” Ms. Ogilvie also noted the Master Plan Steering Committee is also very interested in updating the chapter “but they are currently tied up with the Municipal Facilities Chapter.” A member suggested they get started with a meeting of the two Boards with another noting “it is going to be a pretty significant public process to update that chapter.” Mr. Clark interjected “we really need the public’s input” with Mr. Weeks adding “it is pretty complicated, when you think of most of the goals, objectives and recommendations translate into the zoning ordinances. It is huge.”

Ms. Miller asked “what is the process?” Ms. Ogilvie noted a community survey would be distributed to get input from the townspeople. She noted it would ask questions about *what kinds* of things do you want to see in town and *where* do you want to see them. She noted the last one had been done in 2003. Mr. Clark noted “you can send one to every household but you cannot make them fill it out.” The members then briefly talked about the fact that the public could not be punished for not filling out a survey; perhaps there was some sort of reward that could be offered for those who do.

In conclusion, Ms. Ogilvie clarified that the Master Plan Steering Committee prepares the chapter through their work and recommendations from public hearings and then is presented to and adopted by the Planning Board. Ms. Miller replied “so there are lots of public hearings and surveys but no public vote” with Ms. Ogilvie replying “yes.”

Ms. Ogilvie also noted that “with regard the grant we are looking at a time frame of October to February so that the (Village Neighborhood Overlay Zone) ordinance will be ready for the May Town Meeting Ballot. She briefly reviewed the process of executing a contract and posting a request for qualifications (a process that must be gone through) adding “I expect we will get some good responses.”

Mr. Zeller asked for clarification/status of several businesses in town noting “some of these are referenced back 40 years, I need help with some of them.”

Noting how things change, Ms. Ogilvie reiterated that 10 years ago the Commerce Park was not a focus of the Master Plan, and there had been no planning attention paid to it since its conception. “The things envisioned have not come to pass; we need to have a discussion about that” she said.

Mr. Galus asked about the small house on Old Street Road, just across the street from the MCH campus. He said he saw it was for sale again and asked about its status. Ms. Ogilvie noted the

owners could have petitioned to become a part of the MCH Healthcare District “but chose not to.” A member interjected “they still could” with Ms. Ogilvie agreeing “yes they could” she said.

Discussion of Water Extraction Ordinance

Ms. Ogilvie gave a brief history. She noted that she had been approached by residents Francie Von Mertens and Liz Thomas about an ordinance that would prohibit large ground water extraction. She was advised that the towns of Barnstead and Nottingham New Hampshire both have such an ordinance. She noted ordinances with identical language from Pennsylvania and Maine. “It appears the ordinance was prepared by an organization called Community Environmental Legal Defense Fund” she said.

“I did a little research” she said adding “I talked to both towns and DES.” She reported that Barnstead had adopted the regulation as a bylaw via town warrant at their town meeting. She noted they reported no challenges to the ordinance so far. “In Nottingham the ordinance was brought in via petition in 2008.” She gave the members a bit of history about a water company in that town that had an application for large ground water extraction. “It has been very controversial” noting several legal battles and four legal opinions that have said this ordinance is not enforceable. Ms. Ogilvie also noted she had contacted NH DES and “although I did not get a straight answer from them I was referred to a web site where I found the statute, §485-C 20 that prohibits towns from regulating large groundwater withdrawals.” She noted she had sent the ordinance to the town’s legal counsel for review and an opinion. She concluded by noting “if he concurs we are not going to propose this ordinance.”

The members briefly discussed the minimum requirements for large ground water extraction. She noted “the Stone Barn operation is not large extraction.” A member asked “what about Morrison’s?” and a brief discussion about that operation followed. Ms. Ogilvie recalled that in 2003 when she first came to Peterborough “there was a moratorium on subdivisions in the Rural District. There was a real concern about the groundwater and what potential new uses would do to it.” She added “an ordinance like this may be proactive but if it is not legally defensible we are not going to pursue it.”

Mr. Galus asked about any resources where a person could look at a comprehensive list of town ordinances “like a noise ordinance” he said. Ms. Ogilvie explained what was available through a state web site. She cautioned him “the further away you get from the basic stuff the less information you are going to find” adding “the State does not judge what is good and not good, they just post what they are sent.”

Mr. Weeks told the members that the Town of Peterborough does in fact have a noise ordinance. “It is called Pollution and Disturbance” he said. Surprised Mr. Galus interjected “when I called the Police about a noise issue recently and nothing happened.” Mr. Weeks replied “that’s because they don’t enforce zoning” adding “it comes down to decibel levels.”

Mr. Galus asked about the private helicopter that flies over his house. Mr. Weeks noted “we do not have airport zoning so it is an accessory use to the house.” Mr. Galus replied “even with excessive noise?” Ms. Ogilvie replied “yes, because it is not excessive for a helicopter.” A brief discussion

about decibel levels followed. Mr. Clark reported noise complaints he has encountered while working in other surrounding towns.

Mr. Weeks suggested the members of the Home Occupations Ordinance set a date for their first subcommittee meeting “since we are all here” he said. They decided on Wednesday, July 18th at 1:30 p.m. in the BOS Meeting Room of the Town House. When asked what they should do to prepare for the meeting Ms. Ogilvie advised them to read the existing ordinance and then the draft for its amendment in the Work Program.

The meeting adjourned at 6:40 p.m.

Respectfully submitted,

Laura Norton,
Administrative Assistant

Approved August 13, 2012