

PETERBOROUGH PLANNING BOARD
TOWN OF PETERBOROUGH
Monday, August 28, 2023
Peterborough, New Hampshire

Members Present: Lisa Stone, Gary Gorski, Stephanie Hurley, Carl Staley, Andrew Dunbar, Mike McGill, Sean Tompson, and Blair Weiss

Also Present: Danica Melone and Laura Norton, Office of Planning & Building

Chair Stone called the Workshop to order at 6:00 p.m. with a welcome and introduction of the Board members and Staff.

Discussion of Zoning Code Updates:

Revision of ADU ordinance

Chair Stone told the members she and Carol Nelson had worked on this ordinance. She noted they had researched many other town's ordinances (with the Town of Enfield and City of Dover were currently the only two governments in New Hampshire allowing two ADUs) noting "we feel our 4-page ordinance does *not* have to be so difficult" and cited the following recommendations:

- *Owner-occupancy be eliminated this cannot be policed and is not required for any other types of housing in Peterborough)
- *The ADU be the same likeness of the primary home be eliminated (maintaining the character of the neighborhood),
- *Parking requirements be removed (this should be determined by the property owner)
- *(For attached ADUs) Requirement of an interior door to the primary unit be required (if not necessary for fire code or egress)
- *Allow a second ADU on a lot be permitted (one attached, one detached)
- *Amend the ordinance to allow the order of which come first (primary house/ADU) to be reversed (an ADU can be built to code and lived in while a larger house is constructed at a later date)

Ms. Nelson clarified that while she agreed with eliminating the "same likeness" of the ADU to the architecture of the primary house, "I would suggest of the ADU to be in the style and scale of the community" adding "building design for neighborhood compatibility is cited in the Traditional Neighborhood Overlay Zone I (TNOZ I) so it is not unheard of. This is an attempt to gently infill neighborhoods and I feel a small sentence regarding respect for the size and scale is not egregious."

The discussion that followed included thoughts and concerns about two detached ADUs, Ms. Heller's written comments about the lack of focus on making multi-family housing by-right in all residential zones; the dimensional requirement restrictions innate in underlying zoning and not

getting specific about house designs where they are not considered anywhere else in the regulations.

Ms. Nelson reiterated the TNOZ I requirement with Mr. Staley noting “it says it needs to be sympathetic and that can mean a lot of different things” adding “it doesn’t mean it has to look similar, it just says it has to be sympathetic.”

The members also discussed implications derived from the town property cards and securing financing from lenders; fire suppression systems required for structures with 3+ units; rescinding the owner-occupied requirement as exclusionary and not appropriate, rescinding the parking requirements, the potential reasons for a connector door for an internal ADU and the suggestion that two ADUs be allowed by right with multi-family homes.

Chair Stone reminded the members their goal for the evening was to go from item to item to get feedback from the groups and that no motions would be made. Ms. Melone interjected she felt one amendment was simple and could be easily motioned forward to public hearing. “That would be the Floodplain District Ordinance, where our ordinance was reviewed and a revision made by the state, who strongly recommended we adopt it, and I recommend we do” she said.

Moving on, Mr. Dunbar disagreed with some of the logic expressed for eliminating the parking requirements. “It doesn’t defeat the purpose and it doesn’t cause it to be less financially feasible and it doesn’t deter from ADUs being built in a downtown historical location” he said adding “and I am a case in fact” as he described his ADU, on a small lot that requires parking at his downtown historic home. “If you don’t define parking it could be anywhere. Parking is a physical part of a lot and needs to be controlled” he said.

Mr. Dunbar was also against the removal of owner-occupancy noting “I think it can create a scenario where old homes are bought up and breaking them up into apartments.” Citing duplexes and multi-family homes (not owner-occupied) in town that are not well kept. “How can you select out ADUs? she asked adding “that is exclusionary. We are not an off-campus or resort community hub and I don’t think owner-occupancy is necessary. I think that should be up to the homeowner.” Ms. Nelson also noted creating additional parking is expensive and could be a deterrent to building an ADU.

Mr. Weiss asked about any additional benchmarking information or data on ADU ordinances closer to the Monadnock Region with Chair Stone noting they concentrated on the town of Enfield and the City of Dover as they were the only two places in the state that allow 2 ADUs. Mr. Weiss also noted he felt the intent of the ordinance was for elderly parents to age in place with family members very close by. He also asked for the town code official to weigh in on the interior door requirement for attached ADUs. Mr. Staley interjected “way back when, when I had to get a variance for an apartment of Concord Street nobody asked me if I was going to live there. It never came up.” Ms. Nelson added “you have to question if it is even legitimately legal.” “It certainly seems unnecessary” replied Mr. Staley with Chair Stone adding “and it is certainly not enforceable.” Mr. Weiss noted enforcement would come from neighborhood complaints “that is how New Hampshire works” he said. A brief discussion about the “what if circumstances” of owner-occupancy changes (relocation divorce, death) followed.

Francie Von Mertens introduced herself noting she remembered a public hearing on ADUs held the Upper Hall. “The issue was very heated when not having owner occupancy was discussed” and suggested a review of those meeting minutes for the point brought up on both side of the argument.

Ms. Nelson suggested she and Chair Stone go back and do additional research as well as create a chart or graph on the pros on the issues they have presented. Mr. Gorski interjected his support for the changes suggested, as they were suggested. Mr. Staley cautioned the members to think about the voters. “If it is too much of a lightning rod it could fail” he said adding smaller steps to acceptance may be necessary. Ms. Nelson noted the advantage of placing “cheat sheets” in the voter booths. Those sheets explained what the zoning amendment entails in a nutshell and in a succinct and easy way to understand.

Mr. Thomson interjected “what I am hearing is that too many changes to the ordinance can create confusion and this looks like a lot to have the voters consume.” He went on to say it may seem like the town wants to sell out to ADUs where a developer can buy up all the property and build two units on every lot. “That is an aggressive move in a unilateral direction that signals something” he said with Chair Stone interjecting “yea, we need more housing and this a potential affordable way to do it.” A brief discussion of the likelihood of Mr. Tompson’s suggestion followed and while all agreed something like that may not be financially feasible to a developer Mr. Tompson said he felt it was more of trigger when the intent of ADUs is discussed. “They are not traditionally necessary, often don’t bring about affordable housing and they are a multi-billion-dollar industry powered by the RBO. Let’s call a spade a spade” he said adding “when it comes to changes like this, for voters it is really about what the intent is and that is the signal. So many changes in one direction sends a signal about what the intent is.” He went on to mention land scooping by developers in Dover for housing that will not be affordable and in doing so, leveraging as much financial gain as possible “and adding the options of ADUs as an attraction point of sale.” Ms. Nelson replied, “well ADU does not stand for Affordable Dwelling Unit, you are right.” Mr. Tompson concluded by noting a shift of ADUs being seen as investment in the community rather than incentives for financial advantage would be a step in the right direction. Ms. Nelson noted the current inventory of ADUs in town “does not mean they can’t VRBO or Air B&B them because we don’t have a short-term rental ordinance.”

Having just arrived, Ms. Hurley questioned removing the owner-occupancy clause and why two ADUs were being proposed. “If you want to get two additional units out of a house you should go for a multi-family because those don’t have to be owner occupied” she said. Ms. Melone agreed and noted that is advice she extends to people. A brief discussion about the “what ifs” of ADUs involving duplexes and triplexes as well as the option of requiring one of the two ADUs be dedicated as a workforce unit followed with Chair Stone noting “we still have some work to do on this.”

Revision of Phased Development

Ms. Melone began with two facets, one being to strike the percentage threshold and replace it with a set number of dwelling units created on an annual basis. “Right now ,that number is probably between 50 and 60 dwellings” she said also noting the RSA cannot limit or withhold building permits “but it is not so clear with COs (Certificates of Occupancy) so we are trying to figure it out.” Mr. Staley worked with Ms. Melone on the amendment and noted the Town of

Jaffrey does not have a phased development ordinance. “They use the state ordinance which does not act as a growth management ordinance, if we want that, we have to create it, that is why limits on permits are not allowed” he said. Ms. Melone noted this ordinance also needed additional research before an action was taken to strike it and work before any action to strike it takes place.

Mr. Staley noted the Town of Jaffrey also utilizes development agreements where the town and the developer work together on a building plan that addresses not only growth but the pace of growth, reminding the members it is not just town staff but all town systems and resources (public utilities, schools, fire and police) that are involved. Mr. McGill concluded “it sounds like our current ordinance is designed to address growth, but we are not calling it that. A brief discussion about the intent of the ordinance followed with Chair Stone noting not all projects approved come to immediate fruition. Mr. Staley agreed adding “the other thing about it is that it does not speak dot growth, it only speaks to individual projects, and it is hard to have restrictive growth ordinances without having a specific end in mind so I think we should just strike it.” Ms. Hurley noted the Planning Board’s responsibility to review it every three years, to which Mr. Staley replied, “well if we strike it we don’t have to continue to review it.” A brief discussion followed with Chair Stone asking what the major downfall of the ordinance was. Ms. Staley noted his take from the Town of Jaffrey was that it is a put-off to developers. He concluded by noting phasing did not have to be a zoning ordinance, but rather a calculated plan between the developers, the Town Planners and the Code Officials.

Expansion of Village Commercial District

Ms. Hurley and Mr. Gorski worked on this ordinance and began with projecting the Parcel Viewer and Mr. Gorski pointing out all the Commercial Districts in town. He told the members changing Commercial to Village Commercial will allow a residential component and mandates a 30-foot setback buffer as well as less intensive uses than the Commercial District. Pointing out only Agway and Belletetes as being grandfathered for their legal non-conforming outdoor storage materials (without the ability to expand), all the lots would fit better in the Village Commercial and there were no negative effects.

Ms. Hurley explained her comparisons of the zoning requirements between the two districts “as well as the Business/Industrial District.” Ms. Melone reminded the members of a similar change last year on Elm Street where “essentially the same uses were intact except for a gas service station.” Ms. Hurley added the Commercial District only allowed residential (low and moderate income only) as an accessory use to a business with Ms. Melone explaining the difficulty of enforcing such a thing. She also noted the advantage to the Village Commercial District was that any commercial use that abuts a residential use must have 30-foot vegetative buffer to isolate the uses.

Ms. Hurley continued with her review of the permitted uses in the Village Commercial District noting certain uses were not listed (lodging establishments, museums, theaters, recreation facilities) and suggested if this change was made, they would want to add those uses. Interjecting “The Village Commercial uses are vague for a reason” Ms. Melone noted those uses are technically included but not listed out, “but we permissive zoning, so we could do that for clarity’s sake.” Ms. Hurley also reviewed the setback requirement differences between the two districts and a brief discussion (including bisymmetrical setbacks for single sidewalks, sidewalks on both sides of the street, crosswalks and encouraging walkability and safety to pedestrians and cyclists) followed.

Ms. Hurley concluded with a brief discussion about the potential development in North Peterborough, the use of 79-E, *Community Revitalization Tax Relief Incentive* for housing, and utilizing that incentive if the district was changed to Village Commercial. She note the Vose Farm Road area (currently zoned Business/Industrial) could also benefit from that change. Ms. Melone a bit hesitant and cautioned the members to think about how the loss of Business/Industrial districts will impact the tax base for industrial development. Lastly Ms. Hurley noted the West Peterborough area as a potential target for 79-E and mixed-use living. Ms. Melone suggested they look into it adding “but the West Peterborough and Village Commercial Districts are very similar right now.”

Expansion of 79-E Eligibility

Ms. Hurley noted the conversation above covered most of this amendment “but there is one other thing and that is historic structures in the Village Commercial and Downtown Commercial Districts, and when we think about historic structures we are thinking about the Stone Barn.”

From the audience Ms. Nelson gave a brief history of 79-E “that we are still researching” adding “from 2009 to 2022 there have been several amendments to 79-E that as a town we have not adopted.” Ms. Melone noted it would be interesting to decipher where the town stood with the state with the issue because it is not a Selectborad or Assessing Department function, it is actually a Planning Board function. “Which is not how it has been treated in the past, I think we need more research on it” she said. The members went onto briefly discuss the housing eligibility and aspects of 79-E.

Increase to Minimum Lot Size in Rural District

Revision of Open Space Residential Subdivision

Revision of Subdivision Regulation (for OSRD)

With the relationship of thee three amendments intertwined with each other Mr. Gorski began with a review of a graphic that was projected for the members which defined the dimensional requirements of the current Rural District as well as the bonuses available for setting aside open space. He went on to say, “the first proposal is to increase the minimum lot size from 3 to 8 acres in the Rural District” adding “the second proposal is increasing the percentage number so for density, starting at 65% so the houses will go on a smaller portion of the lot and preserving much more of the open space.”

Mr. Gorski reviewed the graph that showed *current acreage, maximum units with no density bonus and maximum housing with 25% density bonus* on the left with *the same qualifiers but changed the density bonus to 50% and added maximum average lot sizes at 65%, 75% and 85%* and noted *when the minimum lot size is increased to 8 acres the bonus density of 25% goes to a 50% maximum* “because you are dealing with overall smaller numbers and preserving more land. Anyone doing three or more lots would be required to follow this or just build a traditional subdivision, clear-cut huge swaths of space and put stick hoes on giant lots. So what this is saying is if you have a giant parcel of land and you want to build a subdivision on it you are going to preserve the vast majority of with clustered houses in a small neighborhood to protect

and preserve the intact ecosystems and environment.” He concluded “I look at Google maps of Peterborough and I see developments like Cranberry meadow Pond with absolutely enormous clear cuts to put up a handful of houses, I see the environmental damage as extraordinary and actual contribution to addressing our housing shortage as minimal because the number of houses if minimal and I see a lot of future development of our rural areas coming down the pike and if we follow our Master Plan for encouragement of open space and walkability I think doing this a step toward protecting our big intact ecosystems and minimize car-centric neighborhoods.” “So Cranberry Meadow is an example of what you do not want” interjected Mr. Staley with Mr. Gorski replying “yes.”

The members reviewed the graph and discussed the potential outcomes of such a proposal that included discussion about the pros and cons of such a change, prohibitive costs of the land to middle-income households; lack of affordability to the farmers; lots of record and changes to conforming and nonconforming lots and how to successfully deal with flag lots and finally keeping the 3-acre minimum lot size but providing greater incentives to reach the same outcome Mr. Gorski foresees. Mr. McGill interjected as a resident and abutter to a project on that road, “I would love to have seen an 8-acre minimum because the open space attribute doesn’t take into account wetlands (which you cannot build on anyway) and I just feel fortunate that after the initial meeting, the developer came back to the table with less units because they could have come with a whole lot more. I think a larger minimum lot size will make the land less attractive to developers.”

From the audience Matt Lundsted introduced himself and Francie Von Mertens as representatives of the Conservation Commission. “We are tasked with the natural resource side things a voted at our meeting to asked if we could be involved with the Board and the Planning Department to explain some of our concerns” he said. Ms. Melone interjected she, Mr. Tompson and Mr. Gorski had talked about reaching out to the Conservation Commission to attend a meeting, have a workshop or create a short-term work group as their next step. “We can do it any way” replied Mr. Lundsted with Ms. Von Mertens agreed adding “I think a working group with a couple people form the ConCom would be fabulous.” She also noted a review of a ballot article in 2014 to delete the Open Space Residential Development Ordinance and replace it with an Innovative Subdivision Design (to allow more flexibility in subdivision design while promoting the preservation of the natural resources) may be interesting to review. “We were not a part of that, and we did write quite a letter of comment about not being comfortable with it. I’ll give you fair warning, it became a hot issue” she said adding “and it was voted down.”

Mr. Tompson spoke briefly about the problem they are trying to solve in the Rural District “is Column B (the left-hand side). The rest of the data on the screen represent how we are trying to solve the problem. Column B has nothing to do with the OSRD and using Carley Road as a benchmark, if they had crammed everything in and not bothered with the OSRD they could have had 12 houses, but the reality is 3 or 4 houses is the maximum of what the road can take at this time and I think we have to think about how the land is usable, determine what the definition of *useable* is. One of our greatest resources is our Rural District so we are going to have to focus on targeting Column B.”

Ms. Nelson read the aforementioned warrant article of 2014 to delete the Open Space Residential Development and replace it with Innovative Subdivision Design for greater flexibility in

subdivision design and promote the preservation of natural, cultural resources and sustainable development practices.

Revision of Floodplain District Ordinance - Revision of Parking Minimums

Citing the time, Ms. Melone told the members the state had done a free review of the town's Floodplain District Ordinance and made recommendations on what should be updated to meet their current status quo. She went on to say that she and the Code Officer had no issues with and their recommendation was to rescind and replace the ordinance. "We are a Community Rating System (CRS Community) and abide by EMA's floodplain regulations and it was strongly recommended we adopt the changes. A brief discussion about FEMA's updates and changes to the 100-year flood plain, how the town may respond, the potential burdens to the redevelopment of the Downtown area as well as to property owners that would be required to get flood insurance or go through a Letter of Map Amendment (LOMA) process on their own followed. Ms. Melone concluded with a brief explanation of the North American Vertical Datum (NAVD) on floods of various magnitudes and frequencies in the floodplains.

A motion was made/seconded (Hurley/Staley) to adopt the State's Floodplain recommendations to public hearing with all in favor but Mr. McGill and Mr. Tompson who did not vote.

Research Update on Re-Zoning Family District to General Residence District:

Mr. Staley concluded the workshop with some brief details on his ongoing research on re-zoning the Family District to the General Residence District. He cited 883 properties in the Family District, (many with multiple zonings applied to them), "I looked at the list and concentrated on the actual number of 883 and of those, I used 0.9 acre for the number of the lot size and there were 452 of those and 431 lots larger than 1 acre so there so there are *more* nonconforming lots than conforming. It *is* time to think about this and why the Family District exists" he said. Ms. Melone added she was compiling a list of three-family units in the Family District so we would know who would be made conforming with this change.

Other Business:

Ms. Melone noted the Monadnock Energy Fair was taking place on Saturday, September 30th from 10:00 a.m. to 2:00 p.m. at the Town House and asked if the Board was interested in having a table at the event. Due to the short notice, there were no volunteers for this year.

Next Meetings:

Regular Meeting: October 11, 2023 at 6:00 p.m.

Joint ZBA Zoning Workshop: October 23, 2023 at 6:00 p.m.

The meeting adjourned at 8:35 p.m.

Respectfully submitted,

Laura Norton
Office of Planning & Building