



Town of Plaistow, NH
Office of the Planning Board
145 Main Street, Plaistow, NH 03865

PLANNING BOARD MINUTES

January 2, 2019

Call to Order: The meeting was called to order at 6:33 PM

ROLL CALL: Tim Moore, *Chair*
Lisa Lambert, *Vice Chair*
Laurie Milette
James Peck, *excused*
Steve Ranlett, *Selectman's Rep, absent*
Geoffrey Adams, *Alternate*
Francine Hart, *Alternate Selectman's Rep*

Also present: John Cashell, Planning Director, Dee Voss, *Planning Coordinator* and P. Michael Dorman, *Chief Building Official*

T. Moore appointed G. Adams as voting member in J. Peck's absence.

Agenda Item 2: Minutes of December 19, 2018 Planning Board Meeting

★ L. Lambert moved, second by G. Adams, to approve the minutes of the December 19, 2018 Planning Board Meeting.

There was a discussion on the motion. It was decided that the approval of the minutes will be postponed until the next meeting once everyone on the Board has a chance to review them. L. Lambert withdrew the motion and G. Adams withdrew his second.

Agenda Item 3: Public Hearing for proposed Zoning Amendments:

a) A proposed new Noise Zoning Ordinance to include sections for purpose, definitions, guidelines for determining sound levels, prohibited noise emissions and conditions, exclusions and exemptions, inspections, violations and penalties, conflicts with other laws and severability.

Article Z-19-4: Noise Ordinance:

J. Cashell offered a review of the Proposed Noise Ordinance, Article Z-19-4, from the December 19, 2018 PB Meeting and follow up based upon all comments offered by the Board. He reviewed related articles on the Internet and the proposed Noise Ordinance was drafted from the current ordinance used by the town of Hudson, NH and has been customized for the Town of Plaistow.

T. Moore opened the Public Hearing for the proposed Noise Ordinance.

T. Moore asked of the Board has any questions or comments.

J. Cashell offered a review of the amendments made from the December 19, 2018 PB Meeting and offered some suggested changes:

- Page 2: Daytime hours currently shown as 7:00am - 6:00pm conflict with construction hours. Therefore, it is suggested that daylight hours be change to 7:00am - 7:00pm.
- Page 6: The Industrial sound level for evening hours is set at 75dB. It is suggested that the Industrial sound level for evening hours be changed to 65dB, perhaps even as low as 60DB.

Abutters present for the discussion:

Maxann Dobson and Erik Dobson, 5 Nicholas Rd
Sam Cafiso, Jr and Laura Cafiso, 52 Kingston Rd

M. Dobson expressed her concerns about the different decibel levels for different zoning areas such as Residential, Business, and Industrial and the increase of sound allowed near residential areas.

J. Cashell offered that the DB levels are by acceptable land use, not by zoning area.

S. Cafiso expressed his concerns about conflicts between areas of Industrial use abutting Residential areas.

There was a discussion on whether the Board should start to pay closer attention when a business comes in with a Site Plan that is to be located next to a Residential area.

There was extensive discussion about some uses within Zoning Districts that abut residential areas have already been in place from years ago. There is concern about High Industrial next to Low Density Residential areas.

S. Cafiso offered that when he bought his property the abutting property was an abandoned lumber yard. Now that the lumber yard is again in operation he is hopeful that if the new proposed Noise Ordinance is implemented that it will help address the noise generated by the business. He asked how the new Noise Ordinance would be enforced. He stated that he has had officials on his property to access the noise situation previously. However, there was no action taken because the current Noise Ordinance in place has no parameters for enforcement.

J. Cashell offered that sound measurements would be taken from the position of the property owner who filed the complaint. In order to have a means of enforcement a Noise Ordinance needs to be put in place that has specified parameters in black and white.

There was an extensive discussion resulting from abutters concerns about whether or not the new Noise Ordinance would pertain to grandfathered businesses.

There was a review of Attorney Cleary's comments regarding whether or not Plaistow is going to have the necessary equipment to inspect, review, and enforce noise complaints.

It was discussed that if a problem with excessive noise presents itself, Town officials are responsible to work with both parties, the business and the abutter) to come to a resolution. If a problem comes to the point that it becomes a court issue, the Town may make the decision to hire a professional consultant with the proper equipment to do a noise study, as a means to collect evidence to present to the court.

J. Cashell offered that a lawyer would need to review a lot of cases to compare the issues for presentation in court. The Noise ordinance will allow for documentation in black and white which allows the Town to have something to present to the court.

T. Moore offered a review of the "Common Environmental Noise Levels" handout that was given to each member of the Board.

E. Dobson expressed concern about the wording of 220-148. Inspections that states “In the event that any person refuses or restricts entry and free access to any part of a premises or refuses inspection, testing, or noise measurement of any activity, device, facility or process where inspection is sought, the governing body or its designated representative may seek from the appropriate court a warrant for the purpose of inspecting, testing or measuring noise at a reasonable time without interference, restriction, or obstruction.”

It was discussed that if you are a complainant, then you need to allow authorities to study the problem. The measurement will be taken at the location of the complainant. However, the offender’s property would be the place that authorities would want to have unrestricted access to. The complainant needs to allow authorities to be able to establish the burden of proof to be able to present to a court.

It was stated that the purpose of the Noise Ordinance is not to put a company out of business, but rather to get a business to conform to the law. There was a particular business that the abutters had concerns about.

L. Cafiso expressed her concerns that the Noise Ordinance sounds as though it will pertain to the average citizen and not businesses. She offered that there have been complaints made in the past about the noise generated from an abutting business. However, since there were no parameters in place with the current Noise Ordinance, the Town was unable to offer an enforceable solution.

M. Dorman offered that he personally will discuss the new Noise Ordinance with the business in question if it is put in place.

J. Cashell offered that cases are built from Nuisance Laws and that the Town will go to court to defend those laws. There could be fines involved, etc.

M. Dobson asked if older houses built in the Residential area were there first. Then how was the business allowed to go in next to the Residential area?

M. Dorman offered that Zoning didn’t start until the 1950s. The business may have been constructed during pre-zoning.

S. Cafiso offered that some of the houses were built in the 1700s, and the business in question went in approximately 1962. Therefore, shouldn’t the residents grandfather over the business.

J. Cashell offered that the purpose of the Public Hearing is to put a Noise Ordinance in place, not to build a case against a business.

J. Cashell offered additional amendments to be made to the Noise Ordinance:
- Page 9: 220-147 Exclusions and Exemptions, Section B, add # 7 exclusion for noise created by passenger freight trains.
Page 9: 220-147 Exclusions and Exemptions, Section B, add # 8 exclusion for noise created at a legally existing firing range as permitted by law.

J. Cashell offered that he would like the Board to consider the proposed Noise Ordinance, as amended.

J. Cashell offered that the BOS can designate who the official will be to conduct the noise study. If the case goes to court the Town may choose to hire an expert who has the proper certified equipment needed to conduct the study.

J. Cashell offered that there are numerous YouTube videos available online that can train individuals on what equipment to use and how to measure noise levels on their own.

T. Moore closed the Public Hearing for the Proposed Noise Ordinance.

★ F. Hart moved, second by L. Lambert, to approve Article Z-19-4 for the 2019 Town Warrant, the attached Noise Ordinance, entitled: Article XXIV - Noise Ordinance, 220-143 thru 220-149, as amended. There was no discussion on the motion. The vote was 5-0-0 (U/A).

b) A proposed new Solar Collection Systems Zoning Ordinance to include sections for objectives and purpose, definitions, table for permitted uses, roof mounts, ground mounts, carport mounts, electrical requirements, glare, noise, and storm water. The proposed ordinance will also update the district tables of Article V and Planned Residential Ordinance Article VI to allow solar collection systems in specific districts.

T. Moore offered a review of the Proposed Solar Ordinance, Article Z-19-5.

T. Moore offered a review of 220-50.2. Definitions. The following have been included to show size designations:

- G: Small Solar System
- H: Mid-size Solar System
- I: Large Solar System
- J: Very Large Solar System

D. Voss offered that the 220-50.2. Definition section is where Attorney Cleary had a couple of questions.

There was a discussion to address Attorney Cleary's questions:

- 220-50.2.D: the last sentence that states, "the roof mounted portions shall also be excluded" shall be removed. It is already stated in the sentence previous and is therefore redundant.

- 220-50.2.E: The word "racking" will be removed so that the last part of the paragraph states, ... "passive or active tracking systems."

D. Voss offered that by keeping the language a little broad and less specific, by simply stating "passive or active tracking systems", it will allow for future technological changes without having to go back and keep changing the wording of the definition.

T. Moore offered a review of 220-50.9. Noise.

L. Lambert asked if the addition of solar panels adds value to a property.

M. Dorman responded by offering that the question would be in the jurisdiction of Assessing.

F. Hart offered a kudos to the Board for looking into the future with the introduction of a Solar Ordinance.

T. Moore offered that if the Town wants to assess for solar usage, they can.

G. Adams offered his opinion that every time something is assessed and a tax added to it, it deters residents from making a change.

T. Moore asked if the Board had any additional questions or comments.

T. Moore closed the Public Hearing for the Proposed Solar Ordinance.

★ L. Lambert moved, second by F. Hart , to approve Article Z-19-5 for the 2019 Town Warrant, the attached Solar Ordinance, entitled: Article XVA - Solar Collection Systems, 220-50.1 thru 220-50-10, as amended. There was no discussion on the motion. The vote was 5-0-0 (U/A).

Full texts of both of the proposed amendments are available in the Planning Office.

Agenda Item 4: Proposed amendments to the Planning Board's Rules of Procedure:

D. Voss offered a brief discussion of Article Z-19-3 regarding new paragraph "B" in response to Attorney Cleary's question in regard to the PB granting temporary permission for use on a site without site plan approval.

D. Voss offered that there were some minor amendments made to the Rules of Procedure based upon the Board's comments at the December 19, 2018 meeting:

- 225-4. Duties, Section D : Administrative Assistant and The Planning Coordinator have been replaced with "Planning Staff".
- 225-4. Duties, Section E : Has been removed.
- 225-6. Procedures, Section B. Voting: This section has been simplified to state that all voting, whether Public or Non-public session, shall be in accordance with NH RSA 91-A.

★ F. Hart moved, second by L. Lambert, to adopt the Rules of Procedure, as amended. There was no discussion on the motion. The vote was 5-0-0 (U/A).

Agenda Item 5: Old Business:

There was no Old Business presented.

Agenda Item 6: New Business:

There was no New Business presented.

Agenda Item 7: Communications, Updates, & Other Business:

D. Voss stated that the Board has been provided with a copy of the Legal Notice for the PB Public Hearing scheduled for January 16, 2019.

D. Voss offered that an abutter notice for Haverhill has been received in regard to the overlay district for medical marijuana.

L. Lambert asked if it is the PB's intention to adhere to a meeting schedule where workshop meetings are held on the first Wednesday of every month and public hearings are held on the third Wednesday of every month.

D. Voss offered that the Board will try to adhere to the schedule as much as possible. However, sometimes application need to be bumped up to comply with RSA regulations which state that an application needs to be considered for acceptance within thirty (30) days.

T. Moore offered that accepting an application as complete does not have to take place during a public hearing, that it can also be done at a workshop meeting.

D. Voss offered that an applicant doesn't have to be present for the Board to accept an application as complete. Accepting the application as complete just means that all application materials have been received.

L. Lambert offered that the construction of the funeral home driveway is in process.

M. Dorman offered that S. Cafiso is working on that property. The owners may be constructing a new Site Plan to join the two (2) properties under one (1) site plan.

F. Hart asked about the status of Jay Davey's property at 71 Plaistow Rd.

M. Dorman offered that the lawyer that is working on it has been on vacation. He noted that he had suggested the Davey location to the owners of Sanborn Candies, who are getting ready to sell and relocate. If the property is sold, the vehicles on site would need to be removed.

D. Voss offered that any buyer could put in the purchase and sales agreement whether they want to purchase the property with the vehicles on it or not.

L. Millette asked about the status of the bus company property.

M. Dorman stated that he has heard that the property is for sale. He added that a new buyer will need to bring in a new site plan if they propose any use other than the what is on the approved Plan.

T. Moore offered that Steve Whitman (Resilience Planning and Design) will be attending the workshop meeting in February to discuss the Master Plan and to get feedback from the Board on what they want him to work on next.

There was a discussion about encumbered money from 2017 being carried over to 2018.

T. Moore offered that the operating budgets never includes encumbered funds. In his opinion, he would like to see it.

J. Cashell suggested that an item be put on the next workshop agenda to look at future Zoning Amendments, grants and goals for the Board.

D. Voss gave an update on the status of Westville Rd. It is going out to bid. It was noted that based on how high the initial bids were, and on potential cost increases, a warrant article for additional funds may be necessary.

T. Moore offered that he would like to work on combining the Subdivision and Site Plan Regulations into one (1) document.

There was no additional business before the Board and the meeting was adjourned at 8:45p.m.

Respectfully Submitted,
Samantha D. Cote
Recording Secretary