

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



**PLANNING BOARD MINUTES**  
**October 6, 2021**

**Call to Order:** The meeting was called to order at 6:30 PM.

**1. ROLL CALL:**

Tom Alberti, *Ch.* – Present at Town Hall  
Tim Moore, *Vice Ch.* - Present at Town Hall  
Laurie Milette - Present at Town Hall  
Karen Robinson – Present at Town Hall  
Greg Taillon, *Selectman's Rep.* Present at Town Hall  
Maxann Dobson, Alternate – Present at Town Hall  
Bill Coyle, *Selectman's Alt.* - Excused  
John Cashell, *Planning Director* –Present at Town Hall (non-voting)

**2. REVIEW/APPROVAL OF SEPTEMBER 15, 2021 MINUTES:**

Draft minutes of the September 15, 2021 meeting were included with the meeting materials. No corrections were made.

*G. Taillon moved, second by T. Moore, to approve the minutes of the September 1, 2021 meeting as written.*

*The motion to approve the minutes as written passed 5-0-0*

**3. DISCUSSION: PROPOSED ZONING AMENDMENTS:**

Ch. Alberti noted the meeting is a workshop on proposed zoning amendments for 2022 and it was noted that the Board has a schedule of dates and the hard date for delivering warrant articles is mid-January but there are many dates to comply with prior to that, and the Board needs to have two hearings on the matters prior to that.

Ch. Alberti noted that after the last meeting T. Moore had drafted several excellent letters which were signed and mailed regarding the traffic light at the proposed ConvenientMD and Walmart intersection; the intersection of Westville Rd. and Rte. 125; the proposed convenience store at 2 Main Street; and a letter to

the Board of Selectmen. J. Cashell expected the NH DOT would reply in a month and that enquires should be made if the Board does not.

Proposed Zoning Amendments:

**1) Proposed Plaistow Zoning Amendment Z-22-A:** Are you in favor of Amendment #A, as proposed by the Plaistow Planning Board, to the Plaistow Zoning Ordinance, Article III, General Provisions, § 220 – 10, Roadway construction as follows?

**Modify Paragraph A as follows:**

A. All new *residential subdivision* roads shall be public roads. ~~and constructed as public roads including all residential/commercial/industrial subdivisions, Planned Residential Subdivisions, and Housing for Older Persons subdivisions.~~

**Add a new paragraph C as below:**

*C. All new roads shall be constructed as public roads in all commercial and industrial subdivisions. For roads expected to carry very heavy loads, the new roads may require construction standards that exceed those for public roads. New roads in commercial and industrial subdivisions may be designated as private roads with a note on the subdivision and/or site plan that states all summer and winter maintenance shall be done at the property owner's expense. No performance bonds will be required for such private roads.*

T. Moore noted that the existing ordinance says that all new subdivision roads whether residential, commercial or industrial shall be private roads and that as the Board had reviewed a few of the new commercial and industrial subdivisions it appears that is not the best solution for many of them. He commented on the modifications to Paragraph A and the existing Paragraph B which will not be changed. He then explained the addition of Paragraph C.

He noted that this does not explain what to do with PRD roads, whether they are public or private and referred to Snow's Brook where the public road is to the big cul de sac and then it is private road to the PRD. He said that in talking this over with Dee Voss Paragraph A should perhaps say ***all new residential and PRD subdivision roads shall be public roads***. J. Cashell agreed that residents of a private road will eventually want it to be a public road. It was noted public and private roads have to be built to the Town's standards, and that private commercial/industrial roads can be required be built to a higher standard than residential. Ch. Alberti asked if anyone knew of instances where it would benefit the community and Town for a residential road to remain private; none did. He asked if there is any valid reason to not eliminate private residential road construction. J. Cashell noted that if a community offers trash pickup to residents it must also do so for private town house or single family development communities, though a community can provide its own. There was discussion of gated communities and if the warrant article actually forbids private residential roads; it was agreed a variance would be needed. G. Taillon said that once they received a variance there would be no going back to a public road. The story shared by J. Cashell regarding residents of a town with private roads becoming public was a different town than Plaistow.

Ch. Alberti asked if the language in Paragraph C regarding very heavy loads needs to be tightened up. J. Cashell noted that the Board's consulting engineer would review any plans and would know if the road was not properly engineered and the Board agreed.

Ch. Alberti asked if there were other construction types which needed to be considered. K. Robinson asked whether a driveway shared by three houses in a development is a road or a driveway. T. Moore noted that the Fire Department does not like multiple houses on a driveway. He noted some subdivisions where two were approved such as a duplex and suggested the Board should discourage more than that.

Ch. Alberti asked if the Board was comfortable with the amendment and they were.

2) T. Moore said that he has seen language in regulations about subdivision roads that states proposed lots must have frontage on existing roads. He said plans for subdivisions do not have existing roads but proposed roads and the language should be changed to state existing roads or proposed subdivision roads. He said he could not find where the language is so he will bring this back.

J. Cashell found the language Sec.235-8 A Driveway right of way: Each existing lot or new lot or lots created by a subdivision for single family dwelling units must have a separate driveway that connects to a class 5 or better road.

3) T. Moore said we need to modify our Natural Resources Ordinance to account for wetlands buffer intrusions for residential zones. Such intrusions on commercial/industrial sites require a CUP. The remedy for residential zones is to get a variance. The zoning language needs to be cleaned up so there is no doubt about intent. His suggestion would be a CUP would be required for residential subdivisions. This is straightforward since new subdivisions already require a legal notice and public hearings; not much extra work to require a CUP.

However, for single or existing lots the proposal is likely to require only a building permit and the planning board would not be involved. A CUP would still require a public hearing, but who would notice and conduct the public hearing? Planning Board? Conservation Commission? For these cases, he would recommend use of a variance. He asked for input. J. Cashell said he agreed with the variance because a building inspector has the authority to issue a permit for a house or duplex and encroaching there might interfere with the State's statutes. T. Moore said a subdivision will always require a CUP but a single lot instance should use a variance. It was agreed that T. Moore would refine the language of the above into a warrant article.

T. Moore said the other thing to consider is the width of the buffer and if it needs to be changed, which he believed to be 75 feet. Ch. Alberti said that as a citizen he is for increasing protections to the impact to the community whether by setbacks or buffers. J. Cashell said a 100' buffer between residential and commercial stands up in court. There was discussion about setbacks and buffering as well as wetlands protection regardless of development type, and whether having one or two standards (residential and Commercial/industrial) would give better protection than two. It was agreed that the potential for impact for quality of life is greatest with commercial and industrial sites.

It was agreed that the Board will focus on setbacks and wetland buffers. Ch. Alberti suggested requesting recommendations from the Conservation Commission (ConCom) on wetlands, and whether we have one standard as now or create another for commercial and industrial. G. Taillon suggested that protecting the wetlands is key but it should be on the use of the land as some commercial has no impact on them while other types do. He suggested for wetlands we look at whether the setbacks are adequate. Ch. Alberti asked if there were questions to ask of the ConCom and proposed asking if they would consider two different standards. M. Dobson asked what would be the harm in requiring 100' of everyone and let them ask for variances. J. Cashell said buffers are usually stays within the authority of the Planning Board.

There was a discussion of setbacks vs buffers. T. Moore referred to Zoning ordinance Table 220-32i which lists setbacks for each zoning district and each abutting zoning district the front, side and rear setbacks. K. Robinson said she would like frontage setbacks of 75'; T. Moore said it seemed like a lot. J. Cashell referenced Article 3 Site Plan Review, Landscaping is five pages devoted to the subject of screening and buffering where land use industrial abuts residential is already 75', where land use industrial abuts commercial 25', where industrial abuts industrial 10'. He suggested these are the pages to focus on should the Board wants to make changes. He said there would end up being a lot of nonconformity with the

properties legally conforming now. There was discussion about how site applicants would have any recourse if a 75' setback created a hardship; recourse would be to apply for a variance with the ZBA.

J. Cashell noted that a site plan review is an advisory process prior to the issuance of a building permit. A special permit grants the use of land that is not allowed by law; a site plan review is for land use that is already allowed in a zoning district. He said special permits can be denied, site plans cannot.

Ch. Alberti said that the Planning Board can discuss ordinances which have been in use for many years to determine if they still meet the needs of the Town. He asked if the Board wants to discuss setbacks and if someone would want to write up a preliminary warrant article or questions for discussion such as T. Moore had provided for this meeting. K. Robinson said she was interested in just one specific type of setback; Ch. Alberti suggested looking at other towns' zoning ordinances which can generally be found on their websites. J. Cashell suggested that it is not always the setback which makes the difference but what the buffers consist of. He suggested creating user friendly buffers so that residents don't have adverse impact from commercial development but to also allow the commercial site owner to use his property. He also cautioned about creating unnecessary litigation for the Town since that uses taxpayers money for needless litigation. G. Taillon noted that the more stringent the Board becomes, the more relief will be sought from the ZBA to provide variance.

Signs: The Board reviewed proposed changes to Article IX, Signs. Ch. Alberti read into the record:

#### **ARTICLE IX, Signs, §220-58 All Districts**

D. All freestanding signs are required to have a street address that includes the street name and number and that is a minimum of six inches for signs for commercial/industrial uses in the I1, I2, CI and ICR Districts; a minimum of three inches for commercial uses in the CII and VC District; and a minimum of three inches for signs for residential uses in all Districts. **The address rider shall be located at the top of the freestanding sign.** The space required for the address portion of the sign shall not be counted as part of the required sign size [Added 3-13-2012 ATM by Art. P-12-27, Amended March 2015 ATM]

**Explanation to the Board:** The address rider was initially requested by the Fire Department for 9-1-1/Emergency Response purposes. The intent was to make addresses, particularly of plazas, easily identified for first responders. Recently, businesses have requested different locations for the address rider on their signage. Some have been more forceful than others in their request, because the ordinance didn't specifically state where the address rider needs to be located on the sign. Staff has spoken with the Fire Department and their preference is that the address always be at the top for consistency and so that there is no need to search the entire sign in hopes of finding the address rider.

G. Taillon asked if this would require all existing signs to be redone or are they grandfathered; T. Moore said you can't pass zoning and force existing compliance except when health and safety issue – such as the Fire Department's concern. It was agreed this should go forward.

#### **ARTICLE IX Signs - § 220-59. Commercial I and Industrial Districts.**

B. Freestanding signs.

(1) A "freestanding sign" is defined as a name, identification, description, display, or illustration which is not attached to a building, but which is an integral part of a structure, standing alone, whose supports are embedded directly in the earth or upon an open, man-made foundation covering the earth and built specifically to accommodate such signage.

(2) Freestanding signs are not permitted except for shopping centers and industrial parks having two or more businesses or industries.

(3) The Building Inspector may grant a permit for a single sign for a single business, **on a standalone lot**, provided the sign is in keeping with the intent expressed in this article and provided its dimensions are the

same as those required for an attached single sign of no more than 30 square feet, as stated in Subsection A above.

(4) The Building Inspector may grant a permit for a single sign for a single business, **on a standalone lot**, provided the sign is in keeping with the intent expressed in this article and provided its dimensions are no more than 50 square feet, if 20 square feet of that freestanding sign is permanently dedicated as a manual reader board. [Added 3-10-2009 ATM by Art. P-09-24]

**Explanation for the Board:** The intent of the current freestanding sign ordinance is that a business located in a plaza would have a single directory that would allow signs for all the business in that plaza. It also gives the option for the building inspector to issue a small freestanding sign (30SF, with an additional 20SF of manual reader board) for a single business. The intent has always been that single business be on its own standalone lot, however this is not specifically stated in the ordinance. This came up as a question from a business located in a plaza requesting a freestanding sign for their business. They noted that they were a “single business” even though they were located in a plaza, and the ordinance was not clear that this should apply only to those single businesses on their own lot. Adding the red to the current ordinance would clarify that intent.

The Board agreed this should go forward.

#### **Additional Suggestions:**

1) Can an ADU have its own driveway? The ordinance states that the primary dwelling must maintain the appearance of a single-family dwelling, and an ADU cannot have an entrance on the front. However, it does not address driveways. Should/Can there be a separate driveway for an ADU? FYI - There is no current prohibition for a second curb cut (i.e. horseshoe driveway or second driveway) for a single-family dwelling, so it appears to be allowable, but the Board should discuss whether or not it is contrary to the intent of the ADU ordinance intent. **Explanation to the Board:** This came up in a variance request discussion before the ZBA. (§220-9, or §220-9.1)

T. Moore said he felt there should not be an additional driveway. Ch. Alberti said this would be something like an in-law apartment. K. Robinson said she has one such in her neighborhood with one driveway that branches and works well. G. Taillon suggested it would be a rare situation where an additional driveway would be needed. Ch. Alberti said there is no language that explicitly denies or allows this. Ch. Alberti said it would be good to make the language clear. T. Moore said it would be good to make the language in any regulation clear. J. Cashell referenced Sec.235A b) Rights of Way- each duplex dwelling may have two separate driveways or may share one driveway for some or all the driveway length provided that each dwelling unit of the duplex dwelling unit has its street address clearly displayed on the mailbox. In Plaistow the ZBA is not permit granting authority for ADUs, it is done by rights. It is not clear who issues permits for an ADU extra driveway; the building inspector to make a call. T. Moore said that with a duplex it is clear there will be two families while the ADU is usually a member of the family. It was noted that the Town is the permit granting authority for a curb cut on a Town road, and the DOT for a state road. T. Moore said a site plan is required for adding an ADU; J. Cashell asked how that can be if it is by right, and suggested that if the issuing an ADU is under the control of the building inspector why not leave the driveway issue with him too. Ch. Alberti suggested the ordinance language be made clear. There was discussion of the uses for ADUs and their potential to turn into apartments, which a second driveway would encourage. L. Milette said there is language requiring ADU addition to look like a single family dwelling. It was agreed to clarify the language. The majority of the Board felt another driveway should not be allowed; but it was strongly argued that the authority should be whoever approves the curb cut and the Board should stay out of it. It was also noted that an ADU in all intents and purposes is a duplex and additional driveways are already allowed. Ch. Alberti said it did not appear that consensus was reached on

this issue but probably need to clarify the language and probably defer to the building inspector. It will be revisited later. T. Moore agreed to write up some language for this.

2) IDDE updates for MS4 Permit Compliance. (Article XVI) **Explanation to the Board:** This came up as part of an MS4 Task Force meeting. Review and update (if needed) is required by the EPA permit. Tim and Dee will be working on this one.

3) Definition of Apartment – **Explanation to the Board:** Requested by Ch. Alberti to be added to the list (This would go in Article II). Ch. Alberti asked if there is a strong definition of what constitutes an apartment. Does it require a kitchen and bathroom per unit, how many bedrooms, duration of stay, etc. He asked if there is no definition is a building an apartment with tenants or a hotel with transient activity. There was discussion of assisted living, rooming houses, rent by the day or by the month. Ch. Alberti said he would do the research for this. He said this could become a question of use and without a clear definition you don't know how to deal with what might come up. Cashell suggested you can't make a definition for everything. He suggested the opening paragraph should include a qualifying statement and said he would bring a sample statement to the next meeting.

K. Robinson noted that when C1 and C3 there is a restriction against hotels, rooming houses. Ch. Alberti asked if a rooming house would be allowed in an MDR district now. It was noted there are definitions of rooming and boarding houses and they are not allowed in MDR or LDL districts. K. Robinson asked about the units on Westville Road and was told they are multi-family units, some are condos and some are rented. T. Moore said they all started as rental units and some became condos in the 90s.

Ch. Alberti will research the definitions and bring them back to the Board.

#### **4. NEW BUSINESS**

Ch. Alberti said that the Board did not talk about the budget process and should have and asked about the BOS recommendations. G. Taillon said both the BOS and the Budget Committee (BudCom) approved the budget at J. Cashell's current time per week. He said if the Board wanted to increase that time it would be a change to the budget, a request to change could it be made. He said the Rockingham Planning Commission dues contribution is in the 2022 budget, as it was the previous year but wasn't accepted in 2021. He said the Master Plan updating was discussed at the BOS and BudCom and he explained the commissioning of studies in various areas of concern. T. Moore said we are supposed to update the Master Plan at least every 10 years but he feels it is more effective to do smaller changes as you go along. It was noted that a \$5,000 request was approved The Board asked if, aside from the Recreation Committee's intended change, is it necessary to make changes this year. T. Moore said the Recreation Committee was outdated and needed to be updated, and that the water implementation should be part of the Master Plan in the future. L. Milette said she did not see the need to update the Recreation plan as the population has barely increased in the last 10 years. G. Taillon said the population may not have changed much but the environment has.

Ch. Alberti asked if the \$5,000 request be in every budget or should it be a lesser amount. L. Milette said she did not see the need for 2022, and M. Dobson suggested it's more cost effective to wait until there are a number of updates than to do them individually. Ch. Alberti said knowing there is the recreation update to come and the water system to be added maybe the professional update shouldn't happen until 2023. J. Cashell asked if water is a planning board issue or a different authority. T. Moore said that though the Master Plan was just updated the information on Recreation is still old, perhaps 2010. L. Milette wondered

if the Rockingham Planning Commission might help with the Master Plan updating. There were questions about whether to Master Plan document exists in an editable format in the Town's files.

Ch. Alberti said he would like to see an increase in the budget for planning personnel.

Ch. Alberti said that a workshop meeting will be necessary on November 3<sup>rd</sup> and everything must be ready by then. J. Cashell said the public hearings will be needed on the first, and only, meeting in December and have everything wrapped up by the first meeting in January so they are ready for the warrant articles. Citizen petitions open on Nov. 7 and end on Dec. 8.

Ch. Alberti said there was a late request to put 216 Plaistow Road on the agenda; J. Cahsell said that will be tabled until they actually come in for their permit application in December or January.

## **5. ADJOURNMENT**

There was no additional business before the Board and the meeting was adjourned at 9:20 PM.

Respectfully Submitted,

Charlene A. Glorieux  
Minute Taker