

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



PLANNING BOARD MINUTES
Nov 3, 2021

Call to Order: The meeting was called to order at 6:34 PM.

1. ROLL CALL:

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

2. REVIEW/APPROVAL OF OCTOBER 20, 2021 MINUTES:

Draft minutes of the October 6, 2021 meeting were included with the meeting materials.

G. Taillon moved, second by K. Robinson, to approve the minutes of the October 6, 2021 meeting as clarified.

The motion to approve the minutes as clarified passed 4-0-0

3. DISCUSSION OF PROPOSED ZONING MENDMENTS:

Ch. Alberti said the objective for this meeting is to discuss the draft amendments and agree to the proper wording so that at the next meeting when all members are present last minute changes can be made and votes taken.

Proposed Plaistow Zoning Amendment Z-22-A: Are you in favor of Amendment #1, as proposed by the Plaistow Planning Board, to the Plaistow Zoning Ordinance, Article II, Definitions as follows?

Add a new definition for an Apartment as follows:

APARTMENT - Definition of Apartment –

It was noted this is a place holder and that discussion had begun on whether a definition of Apartment had requirements such as kitchen, bathroom, etc. T. Moore noted that Definitions include just about everything other than an apartment. J. Cashell offered a general definition: a suite of rooms forming one residence typically in a building containing a number of these.

G. Taillon noted the previous discussion had been about an in-law apartment and after the family member moved out whether it could be rented as an apartment, making it similar to a duplex. Ch. Alberti read the definition of a rooming/boarding house: “A building other than a hotel or motel where lodging is provided for compensation without individual cooking facilities. These will be considered commercial uses.” He noted this usage would not be allowed in a residential district. K. Robinson asked about an apartment constructed in a residential house for a member of a family to live in (such as a grown child or elderly parent) and when the house was sold if the new owners could rent this apartment out to someone outside their family. She suggested some distinction should be made between an in-law apartment and a rental unit.

J. Cashell cited a legal definition of apartment in a house: “A part of a house occupied by a person while the rest is occupied by another or others.” G. Taillon said this does not describe an in-law apartment as it doesn’t have a wall or separate egress. B. Coye said that in Massachusetts when an in-law apartment is added the stipulation is that only another family can live in that apartment, it cannot be rented out to non-family member. J. Cashell noted that the difference between an apartment and a condo is ownership. An apartment is defined as a residence that is rented often as a part of a large residential building.

Ch. Alberti asked T. Moore if there are specifications for apartments and if it is important to have a definition of an apartment. T. Moore suggested specifying what a commercial use vs residential use. An apartment building is a commercial use and units can have multiple bedrooms. Ch. Alberti asked about renting an accessory dwelling unit to a non-family member. T. Moore suggested the NH RSA precludes you from making the restriction, though the homeowner lives in one of the units. G. Taillon suggested an apartment definition would need to be pretty broad and under it would need to be two other definitions, one residential and one commercial.

Ch. Alberti read the definition of an Accessory Dwelling Unit from Plaistow Zoning Ordinance Chapter VIII § 220-57. General Requirements. [Amended 3-13-18 ATM by Art. Z-18-07]. J. Cashell noted there is a definition for rooming and boarding house: “ROOMING AND BOARDING HOUSE — A building other than a hotel or motel where lodging is provided for compensation without individual cooking facilities. These will be considered commercial uses.” Ch. Alberti suggested going with T. Moore’s suggestion of defining residential and commercial uses for apartments; that an apartment building as well as a rooming/boarding house would be applicable to the commercial district vs a residential district. K. Robinson cited that accessory dwelling units are allowed in owner-occupied dwellings and are not allowed in multi-family dwellings. Ch. Alberti asked about revisiting the second driveway issue, which was going to be left up to the building inspector.

J. Cashell offered a definition:” a self-contained rental living unit that includes cooking and bathroom facilities as well as sleeping quarters for one or more individuals or persons.” Ch. Alberti asked about defining the difference between commercial apartment buildings and other boarding and rooming uses versus residential buildings. G. Taillon said you would need to if you would allow one type of dwelling in a zone and not another. J. Cashell said there is a definition of multiple dwelling: “any dwelling containing more than two dwelling units” which is addressed within the table of uses. The Board expressed comfort

with J. Cashell's definition. Ch. Alberti said he would take all the information into consideration and write something for the Board to review as an added definition to go before the voters.

Proposed Plaistow Zoning Amendment Z-22-B: Are you in favor of Amendment #2, 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 and Planned Residential Development 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 commercial and industrial roads shall be constructed using road construction standards found elsewhere in Plaistow's zoning and subdivision regulations. 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.

Voter's Guide Information:

Explanation: Article Z-22-B: This amendment does two things. 1) It allows commercial and industrial roads to be private (previously the default was to make them private roads) and 2) it allows, when necessary for heavier commercial and industrial uses, for the private roads to be built using more robust road construction standards.

Ch. Alberti asked for input from the Board. G. Taillon asked what has to happen if a commercial development has a private road and wants to give it back to the Town, and if the Town has to take it. T. Moore said the Selectmen would hold a public hearing would need to be held and vote, but there is no requirement the BOS has to accept it. One reason it might not be accepted would be if it wasn't built to Town standards or there were some safety concerns. K. Robinson asked about Wilder Road that has many industrial buildings off it. G. Taillon and T. Moore said that is a Town road because the landfill is accessed off it.

J. Cashell spoke about referring to streets as roads but noted that legally roads should be referred to as streets to be consistent. He said for the most part subdivision regulations mentions streets. It was noted that roads appear in many places in the zoning regulations. G. Taillon noted many RSA's mention roads. T. Moore suggested a definition stating streets and roads are synonymous and it was agreed he would look at this definition.

The Board agreed it was comfortable with the amendment.

There was discussion of upcoming meetings and public hearing on zoning amendments. J. Cashell suggested the December 1, 2021 meeting as a public hearing for the amendments. T. Moore said that once the legal notice is in the paper and you open up the public hearing and once the hearing is closed if you like the language in the amendment you can vote to post it to the warrant or you can continue it to another public

hearing. Ch. Alberti said that though the November 17, 2021 meeting will be busy, all the proposed amendments should be written up and available for review.

Proposed Plaistow Zoning Amendment Z-22-C: Are you in favor of Amendment #3, as proposed by the Plaistow Planning Board, to the Plaistow Zoning Ordinance, Article IV, Natural Resources Protection, §220.18, Wetlands Conservation District as follows?

Add three paragraphs A, B and C to §220.18.2, Applicability as follows:

A. In all zoning districts where new or amended site review plans and/or subdivision plans are being proposed and there are wetlands buffer and setback encroachments and/or stream crossings an applicant must apply for a Conditional Use Permit (CUP). CUP approval by the Planning Board must be obtained before the site review plan and/or subdivision plan shall be approved or conditionally approved. CUP approval shall not be allowed as a condition for a conditional approval.

B. In all residential districts where an applicant is proposing changes on a single lot and there are stream crossings the applicant must apply for a CUP from the Planning Board. If there are also wetlands buffer or setback encroachments, the CUP shall also be used to remediate the encroachments.

C. In all residential zoning districts where an applicant is proposing changes on a single lot and there are no stream crossings but there are wetlands buffer and setback encroachments, the applicant shall apply to the Zoning Board of Adjustment for a variance to remediate the encroachment(s).

There was considerable discussion about the final sentence in ¶ A and it was agreed to remove it as redundant. T. Moore was asked to think about it further and perhaps suggest another way of phrasing the sentence to meet any concerns.

In discussion of ¶ B T. Moore was asked if a Planning Board CUP could supersede a zoning decision, he said that Zoning can send you in one direction or the other. He said there have been some instances where the Planning Board has disagreed with the ZBA but if that happened it would likely go to court. G. Taillon asked if under ¶ B a subdivision applies to the Planning Board for a CUP and it is not approved can they go the ZBA and request a variance. T. Moore said some conditions are appealable to the ZBA and others can only be appealed to the Superior Court.

Ch. Alberti asked if in ¶ C someone wants to put a pool in a wetland buffer they would go to the ZBA for a variance; but in ¶ B the person wants the pool to cross a stream and be in a wetland buffer could they just get the CUP from the Planning Board. J. Cashell said that the Building Inspector has sole authority with single family homes and duplexes and any variance such as using the buffer would go to the ZBA. He suggested single family and duplexes should remain within the ZBA authority. He noted the Planning Board has jurisdiction with subdivisions and site plans and uses the CUP but that can migrate between it and the ZBA. Ch. Alberti asked T. Moore why B and C have different courses of action. T. Moore said this came up because the ordinance as it exists doesn't specify what you need to do for residential

encroachments. Ch. Alberti asked for input on these points of view. K. Robinson asked what actually goes for a variance with the ZBA and if it ever comes back to the Planning Board. T. Moore said the ZBA does not typically hold public hearings for things other than variances; but with a stream crossing, encroachments and a CUP the Conservation Commission often weighs in. He noted a CUP requires an engineering review to ensure the crossing is technically sufficient and that seems a bit more than a Code Enforcement officer would have knowledge of. Ch. Alberti asked if having ZBA review of stream crossing would be sufficient; T. Moore says the ZBA can get some additional information but he did not know how else to enforce an engineering review. G. Taillon asked if someone going to the ZBA for a variance would the ZBA ask if they had gone to the Planning Board and requested a CUP, or would they just take on the request. J. Cashell said that in the real world what's going on in a back yard is hard to discover unless a neighbor calls the Building Inspector. There was a discussion of the consequences of bringing fill into a year without permit and the issues it can cause to abutters.

Ch. Alberti recapped that the Board agrees with ¶ A, understands the intent of ¶ B which deals with a stream crossing and requires a CUP from the Planning Board, which will also deal with the buffer, and ¶ C which is straightforward for the ZBA. He asked if as in ¶ B it is appropriate for the Planning Board to take on that role. J. Cashell suggested asking Atty. Cleary to look into the matter. It was agreed that Atty. Cleary would look over the amendments anyway and we should ask for clarification on ¶ B as well as the roles of the Planning Board and the ZBA in ¶ B and ¶ C.

Modify the title of §220.18.7 from “Permitted Uses:” to “*Limited Use Buffer Permitted Uses:*”

Modify the footnote language for clarification of setbacks in §220.18.3.D, Table of Wetland Buffers and Setbacks, to the following: “Man-made drainage structures including but not limited to detention ponds, retention ponds, and drainage swales shall be exempt from any structure setbacks.

Voter's Guide Information:

Explanation: Article Z-22-C: The existing ordinance is not clear if an applicant should apply for a variance or a Conditional Use Permit when wetland encroachments are involved. The addition of paragraphs A, B and C to section §220.18.2 state when a CUP or variance should be used. The title change to “Limited Use Buffer Permitted Uses” is an attempt to clarify the list of permitted uses its relationship to the table of Wetland Buffers and Setbacks found in §220.18.3.D. The modification of the footnote to the same table is to clarify the intent of the footnote.

Ch. Alberti asked for an explanation of this change. T. Moore said one of the sections of the ordinance is call Permitted Uses and shortly after there is a table of Setbacks for various uses, and one of the columns in the table is labeled Limited Use Buffer. The section called Permitted Uses does not appear in the table of setbacks and there is a column in the Table of Setbacks called Limited Use Buffer and nowhere is there a part of the Ordinance called Limited Uses. He said there is a mismatch in the language that needs to be clarified. Ch. Alberti noted the following addition to the explanation: **an attempt to clarify the list of permitted uses and its relationship to the table**

The Board agreed it was comfortable with the amendment.

Proposed Plaistow Zoning Amendment Z-22-D: Are you in favor of Amendment #5, as proposed by the Plaistow Planning Board, Article V, Establishment of District and District Regulations, § 220-32. District objectives and land use control by amending Table 220-32 I, Minimum Dimensions for all Districts, as follows?

Modify Paragraph A “Structure Setbacks” by increasing the front setback in Commercial I zoning district from 50 feet to xx feet.

K. Robinson said this should read “Increase the front setback in the C1 and C3 zones” and noted that along Route 125 the commercial setbacks are: Epping – 100 feet, Kingston – 100 feet, Brentwood – 125 feet, Lee – 125 feet, Barrington – 125 feet. She suggested going to a 100 foot setback. It was noted this would affect a new building going in on C1 or C3 which right now can be as little as 50 feet. G. Taillon noted there are malls right now at 50 feet and if they were redeveloped they would not be 100 feet available for a setback. J. Cashell said that most properties along Rte. 125 that will be redeveloped will be able to manage 100 feet, but he suggested 75 feet as a compromise. G. Taillon wondered if redevelopment of the small malls would be cancelled out due to 100 foot setbacks. J. Cashell said there are a lot of small lots on the northbound side would require variances for appropriate redevelopment that would blend in. There was consideration of whether some of the small lots that are close to the road could be grandfathered in. J. Cashell noted that in many towns the older shopping centers are being transformed into village style development and the Board will need to start dealing with these. Ch. Alberti said he supports the setbacks but would hate to see redevelopment of some places not happen due to these restrictions. J. Cashell said that long range the Board should look to improve the aesthetics of the Rte. 125 corridor with more landscaping and breaking up the parking areas as much as possible. T. Moore said that without deep lots the larger setbacks might hurt small businesses, even though variances are possible. G. Taillon suggested that 75 feet rather than 100 might help in this area; he suggested looking at how much space is available in the small lots might be helpful.

Ch. Alberti suggested a statistical analysis of how properties are currently set would help. He asked whether the type and size of a structure could determine the setback or if it has to be standard. K. Robinson said the new setbacks should apply to new buildings on lots, and variances should be sought if the developer couldn't conform. Ch. Alberti asked the Board to consider the language needed and to leave this as is until the whole Board is present to discuss the issue. J. Cashell said the corridor needs to be looked at and studied so adverse regulations are not enacted which would restrict potential revenue to the Town. He advocated a map of the corridor showing what exists as something the Board could work from. K. Robinson reiterated that the new setbacks are for new buildings. J. Cashell advocated breaking up large pavement area monotony with building structures, greenery, etc. Ch. Alberti asked about a developer taking down a building and putting a new one up in its footprint and it was agreed they would have to obtain a variance.

T. Moore asked whether the building size should be taken into consideration for the road setback distance. He asked if a building is small would the 50 foot setback be adequate, and if over 25,000SF a larger setback would be more appropriate. Ch. Alberti asked if the ruling is by district or building size; J. Cashell suggested saying the setbacks shall apply or may be modified by the site plan review of the Planning Board, so the Board can remain nimble and work with plans that may create a nice environment. Ch. Alberti wondered if variance to setbacks can be approved by the Planning Board and will ask Atty. Cleary. T. Moore noted that on plots with frontage on two streets, the zoning says you use the front setback on both roads, but that if the setback is increased substantially we might consider letting the applicant decide which street is the front. J. Cashell said the 25 feet of landscaping can also be enhanced.

Voter's Guide Information:

Explanation Article Z-22-D: TBD

Proposed Plaistow Zoning Amendment Z-22-E: Are you in favor of Amendment #5, as proposed by the Plaistow Planning Board, to the Plaistow Zoning Ordinance, Article VIII, Accessory Dwelling Units - ADU, §220–57, General Requirements as follows?

Modify the text in Paragraph K from “... under the provisions in letters A through **J** in this ordinance.” to “... under the provisions in letters A through **K** in this ordinance.”.

Renumber Paragraphs K through M as Paragraphs L through N.

Add a new Paragraph K as follows:

K. Driveways for the primary residence and its ADU shall have an ingress/egress onto a Class V or better road via a single curb cut unless the Building Inspector determines that a second curb cut is safer and/or aesthetically pleasing.

Voter’s Guide Information:

Explanation Article Z-22-E: The current ADU ordinance, Article VIII, does not specify whether ADUs are allowed their own driveway. This amendment attempts to clarify the conditions when a separate driveway would be permitted.

Ch. Alberti said the Board had agreed not to pursue this amendment.

Proposed Plaistow Zoning Amendment Z-22-F: Are you in favor of Amendment #6, as proposed by the Plaistow Planning Board, to the Plaistow Zoning Ordinance, Article IX, Signs, §220–58, All Districts, paragraph D as follows?

Modify Paragraph D as follows:

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 (street number and street name) shall be located at the top of the freestanding sign.*** The space required for the address ***rider*** portion of the sign shall not be counted as part of the required sign size.

Voter’s Guide Information:

Explanation: Article Z-22-F: 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 the at top for consistency and so that there is no need to search the entire sign in hopes of finding the address rider.

Ch. Alberti recalled the prior discussion on the amendment for signs to help the Fire Department easily identify the site. K. Robinson noted that C3 is not included in the language. It was noted that Dee Voss had authored the modification, and that Ch. Alberti will ask her to include C3.

Proposed Plaistow Zoning Amendment Z-22-G: Are you in favor of Amendment #7, as proposed by the Plaistow Planning Board, to the Plaistow Zoning Ordinance, Article IX, Signs, §220–59, Commercial I and Industrial Districts, paragraph B as follows?

Modify Paragraph B.3) as follows:

B. 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.

Modify Paragraph B.4) as follows:

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. 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 in a plaza, and the ordinance was not clear that this should apply only to those single businesses on their own lot. Adding the **standalone lot** to the current ordinance would clarify that intent.

K. Robinson asked if there is a standardized sign requirement. Ch. Alberti asked where there is a business in a plaza that’s on a standalone lot. T. Moore suggested this say the reverse of what we are trying to say – that we don’t want which is not to have a standalone sign in front of each business in a plaza. The Board was comfortable with the language

Additional Suggestions:

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.

J. Cashell said he heard this day that nothing needs to be done to comply with this. D. Voss and T. Moore will continue to work on this and report back to the Board.

Proposed Subdivision Amendments for 2022

Add a new subdivision section § 235-8A to be titled Driveways. Do not make any changes to the existing section § 235-8 Rights-of-way; reserved strips. In that section paragraphs A, B, C are designated as Reserved for Future Use.

Modify the language existing language that appears incorrectly in 235-8 as follows:

§ 235-8A. Driveways.

1. Each existing lot, or new lot(s) created by a subdivision, for *a* single-family dwelling unit must have a separate driveway that connects to a Class V or better road *or to a proposed subdivision road*.
2. Each *existing lot or new lot created by a subdivision for a* duplex dwelling unit may have two separate driveways or may share one driveway for some or all of the driveway length, provided that each dwelling unit of the duplex dwelling unit has its street address clearly displayed on the mailboxes, as well as each dwelling unit. Each driveway (shared or unique) must connect to a Class V or better road *or a proposed subdivision road*.
3. *Each existing lot or new lot created by a subdivision for a* ~~M~~ multi-family dwellings-unit may *have* shared driveways provided dwelling unit numbers or other address identifiers are clearly displayed at the driveway entrance/mailbox, as well as each dwelling unit. *Each driveway (shared or unique) must connect to a Class V or better road or a proposed subdivision road.*

The Board was comfortable with the wording.

Examples of Definition Sections from other Municipalities

Ch. Alberti referred to the examples of definitions and asked why it was included in the packet. J. Cashell said the Board might want to consider some more information on the use of definitions and how they appear to create a hierarchy of where the definitions come from. Ch. Alberti asked if the Board wants to add any language to page 3 of the existing §220-2. T. Moore said that once or twice when lawyers have appeared for an applicant there had been some questions but in the end the Town prevailed. He suggested a little language could be added. T. Moore will look into this.

4. POTENTIAL GRANT SOURCES FOR PLAISTOW:

J. Cashell discussed the importance of looking what grants are available but that the Planning Board should have a discussion about this. He said the one for planning – Plan New Hampshire – would invite the Plan NH group in and devote a day and a half to deal with an overwhelming planning issue. This would be a workshop meeting and Plaistow would need to provide a continental breakfast and perhaps lunch to deal with an issue that we'd like to have outside professionals to help us resolve. Other members of the community would be invited to join. For example, a focus on creating new recreational facilities, or a focus on what Rte. 125 should/could look like in the future. The cost ranges \$12-15,000 and they would come to us. It would take a 6-8 month period to prepare for it. He noted several years ago Concord did this and transformed their whole Main Street to invite pedestrians and handle parking. T. Moore said the Planning Board had Plan NH in 2012-13 focus on Main Street and downtown. They made suggestions based on information received from residents which he felt were useful. He felt they worked well for small scope projects. J. Cashell said it would be a good grant to push through as it leads into a bigger grant potential. He said the grant is \$12,000 and the Town's share is 10% plus any food and beverage. Ch. Alberti asked if there is a budget line to cover the Town's portion; J. Cashell said he would work on that.

5. OLD BUSINESS/NEW BUSINESS

Ch. Alberti referenced the letter from NH DOT regarding 49 Plaistow Road. T. Moore said he interpreted the letter to say they will take our comments under consideration but they still think a two-way entrance/exit off Garden Road is appropriate. Ch. Alberti asked if the Planning Board has the authority to do what it feels is right. J. Cashell noted that through traffic is not even legal. He said the important thing is they will take into consideration separate sequencing for egress traffic leaving the site in conjunction with left and right turns coming out of the Walmart plaza.

T. Moore said the DOT is asking Mr. Coronati for the Trip Generation Memo information as well as other information. He suggested another letter will be coming to the Board considering Westville Road.

Meeting Schedule: Nov. 17th will be for public hearings for four site plan applications as well as information on the zoning amendments. Dec. 1st will be a review/public hearing for the zoning amendments. T. Moore suggested the amendments are close enough the hearing can be advertised, and if during the public hearing and the scope of an amendment changes it should be closed and continued to a second which notice has to be in the paper 10 days ahead.

6. ADJOURNMENT

There was no additional business before the Board and the meeting was adjourned at 9:06 PM.

Respectfully Submitted,

Charlene A. Glorieux
Minute Taker