



Town of Plaistow, New Hampshire
145 Main Street, Plaistow NH 03865
Phone: (603) 382-8469

PB Minutes 1/15/14

PLANNING BOARD MINUTES January 15, 2014

Call to Order: 6:35 p.m.

ROLL CALL: Steve Ranlett, *Chair*
Tim Moore, *Vice Chair*
Genifer Silva
Shem Kellogg, *Excused*
Robert Gray, *Selectman Ex-Officio*
Geoffrey Adams, *Alternate*

Also present were Leigh Komornick, *Planner* and P. Michael Dorman, *Chief Building Official*

G. Adams was appointed as a voting member in place of S. Kellogg.

Minutes of December 18, 2013 Planning Board Meeting

T. Moore moved, second by G. Silva, to approve the minutes of the December 18, 2013 meeting. There was no discussion on the motion. The vote was 5-0-0 U/A.

Agenda Item 4: Meeting with Mark Fougere, AICP, Planning Consultant, regarding proposed work on Master Plan and Impact Fees

M. Fougere gave an update of what he had reviewed thus far. He noted that L. Komornick had provided him with many documents that he was still in the process of going through. M. Fougere added that he had discussions with L. Komornick, Town Manager Sean Fitzgerald, and the Conservation Commission and would be meeting with the Recreation Commission the next Monday.

There was discussion regarding how to best qualify and come up with a needs analysis to justify whether or not to even continue with certain impact fees. M. Fougere noted that only two recreation items were called out in the CIP (Capital Improvement Program) which would be a problem from an Impact Fee justification perspective.

There was discussion regarding updates to the Master Plan and the possibility of surveying some of the residents. It was noted that there had not been a survey done since 1999. Possibly options for completing a survey were discussed. M. Fougere offered to provide examples of other surveys he had assisted other communities with, including an online survey that automatically tabulates the results if set up properly. It was undetermined if our current webhost can work with such a survey. There was discussion regarding sending out a paper survey. The Board will review sample survey questions to determine which will be the most applicable to Plaistow.

There was discussion of public forums versus surveys. It was noted that it's difficult to steer a public forum in a certain direction if that direction is not the same as the concerns of the forum participants. A survey can be tailored to just the topics the Board determines are relevant.

There was discussion regarding an Implementation Chapter and how best to keep the entire Master Plan updated on a regular basis.

M. Fougere offered that he would forward some sample surveys to the Board to get them started on a survey for Plaistow. The recommendation is that the survey be made up of about 25 questions.

There was discussion regarding how to best compile the results of the surveys. M. Fougere offered to provide samples of those tools as well.

There was discussion as to where the survey costs would come from.

There was discussion of the newly developed Recreation Strategic Plan and how it would fit into the updating of the Recreation Impact Fee. It was noted that there was a Warrant Article proposed that would establish a Capital Reserve Fund for Recreation Projects as outlined in the new Recreation Strategy Plan. M. Fougere noted in order to collect impact fees for a project it must be included in the CIP. It was noted that not every individual item was listed but the Recreation Strategic Plan was included in the CIP.

There was discussion as to whether or not recreation impact fees could be collected for a Community Center as it was listed in the CIP under Town Buildings.

It was decided that the first step would be to develop and distribute a survey to a number of single-family property owners. Survey options such as UNH Survey Center were also discussed.

M. Fougere said that he would take all the input from the Planning Board back and continue his review and recommendation process. He added he would report back to the Planning Board in a few weeks.

Agenda Item 5: Continuation of a Public Hearing on the Proposed 2014 Zoning Amendments (*from December 28, 2013 Planning Board Meeting*).

L. Komornick offered that a copy of the proposed changes had been sent to S. Fitzgerald to be forwarded to the Board of Selectmen.

R. Gray confirmed that the Board of Selectmen had received a copy of the proposed amendments. He also asked if these proposed amendments would be noted as "Recommended by the Planning Board" on the final Warrant.

L. Komornick confirmed that they would be noted as such.

It was noted that these proposed amendments to the Zoning Ordinances were read in full at a previous meeting. It was also noted that this was the second public hearing on these proposed changes. It was also noted there was no one present in the gallery to make public comment.

Proposed Plaistow Zoning Amendment: Z-14-1

Are you in favor of amending the Zoning Ordinance by creating a "CI-Danville Road Overlay District: to allow Mixed Uses in the portion of the Commercial I District along Danville Road by adding a new paragraph E to Table 220-32B (CI – Commercial I) to read as follows and as shown in the diagram?

E. CI-Danville Road Overlay District

The CI-Danville Road Overlay District as shown on the Zoning Map shall have the following additional permitted use:

Mixed Commercial/Residential Uses where the workplace or the residence must be owner occupied.

[Intent: To allow mixed commercial and residential uses for a portion of the parcels located along Danville Road more specifically described as Tax Map 29, Lots 11, 12, 13, 15, 16, 17, 18 and 19 and Tax Map 30, Lots 77, 78, 79, 89, 81, 82, 86, 87, 88, 89, 90, 91)

R. Gray moved, second by T. Moore to post Proposed Zoning Amendment Z-14-1 to the Warrant. There was no discussion on the motion. The vote was 5-0-0 U/A.

Proposed Plaistow Zoning Amendment: Z-14-2

Are you in favor of amending the Zoning Ordinance Article III, General Provisions, by adding a new §220-17.4 Class VI. Road Building Requirements to read as follows?

§ 220-17.4. Class VI Road Building Requirements

Class VI roads are roads that have been laid in some form but never maintained by the Town. The Class VI designation may apply to entire roads or sections of roads. All buildings constructed on Class VI roads must submit a Limit of Liability form to the Board of Selectmen. This form must be reviewed and approved by the Board of Selectmen.

All other zoning, subdivision, and/or site plan review requirements must also be met.

[Intent: Clarify the requirements for building on Class VI roads.]

R. Gray moved, second by T. Moore to post Proposed Zoning Amendment Z-14-2 to the Warrant. There was no discussion on the motion. The vote was 5-0-0 U/A.

Proposed Plaistow Zoning Amendment: Z-14-3

Are you in favor of amending the Zoning Ordinance by modifying Article III, General Provisions. §220-16. Motor vehicle and trailer sales, paragraph B to read as follows: “B. No lot used for a vehicular dealership in any zone may be located any closer than 1,000 feet in any direction to any other lot used for a vehicular dealership”?

[Intent: Previous zoning only required the 1,000 foot separation in the C-1 zone. This change extends the 1,000 separation to all zones even though only C-1 and ICR zones currently allow this use.]

T. Moore moved, second by G. Adams to post Proposed Zoning Amendment Z-14-3 to the Warrant. There was no discussion on the motion. The vote was 5-0-0 U/A.

Proposed Plaistow Zoning Amendment: Z-14-4

Are you in favor of amending the Zoning Ordinance by modifying Article VI, Planned Residential Development (PRD) § 220-47. General Requirements, paragraph B to include a minimum distance between 2 accesses by adding the following to paragraph B, “and at least 100 feet must exist between the centerlines of the 2 access rights-of-way.”?

[Intent: The current language in the ordinance does not specify a minimum distance between the accesses in a Planned Residential Development]

R. Gray moved, second by G. Silva to post Proposed Zoning Amendment Z-14-4 to the

Warrant. There was no discussion on the motion. The vote was 5-0-0 U/A.

Proposed Plaistow Zoning Amendment: Z-14-5

Are you in favor of amending the Zoning Ordinance Article VI, Planned Residential Development (PRD) § 220-47. General Requirements. by adding a new paragraph as follows?

H. If any part of the PRD is going to be part of a condominium, then a condominium subdivision plan and all associated condominium documents must be reviewed by the Planning Board attorney and approved by the State of New Hampshire. Such plans and documents must be recorded at the Rockingham County Registry of Deeds.

I. If any kind of homeowner's association is to be formed, then covenants pertinent to the association must be reviewed by the Planning Board Attorney and approved by the State of New Hampshire. All such documents must be recorded at the Rockingham County Registry of deeds.

[Intent: Although these documents have always been required, the ordinance did not clearly spell out this requirement.]

T. Moore moved, second by G. Silva to post Proposed Zoning Amendment Z-14-5 to the Warrant. There was no discussion on the motion. The vote was 5-0-0 U/A.

Proposed Plaistow Zoning Amendment: Z-14-6

Are you in favor of amending the Zoning Ordinance Article VI, Planned Residential Development (PRD) §220-48 Specific Design Requirements by adding a new sentence to paragraph C as follows?

The combined area of wetlands and slopes over 15% may not exceed 30% of the open space.

[Intent: The intent of the open space requirement is to allow for passive recreational uses for the PRD community. This requirement cannot be met if the open space is made up of mostly wetlands and steep slopes.]

R. Gray moved, second by T. Moore to post Proposed Zoning Amendment Z-14-6 to the Warrant. There was no discussion on the motion. The vote was 5-0-0 U/A.

Proposed Plaistow Zoning Amendment: Z-14-7

Are you in favor of amending the Zoning Ordinance Article X. Home Occupations §220-67, by adding a letter J. to read "There shall only be one (1) home occupation per ~~parcel~~ dwelling unit"?

[Intent: The Home Occupation is intended to allow home owners to conduct business at their residential address without impacting either the residential character of their neighborhood or abutting property values. Having multiply home occupations is not within the spirit and intent of that purpose. This amendment makes clear that only a single home occupation is allowed per ~~parcel~~ dwelling unit.]

Discussion:

It was noted at the last meeting the words "dwelling unit" were changed to "parcel." It was decided to change it back to "dwelling unit" so that those in condex and in-law apartment situations would be allowed to have a home occupation in each unit while still limiting the number of commercial vehicles that would be allowed on the property.

R. Gray moved, second by T. Moore to post Proposed Zoning Amendment Z-14-7 to the Warrant. There was no discussion on the motion. The vote was 5-0-0 U/A.

Proposed Plaistow Zoning Amendment Z-14-8

Are you in favor of amending the Zoning Ordinance Article VIII, In-Law/Accessory Apartments as follows?

ARTICLE VIII In-Law/Accessory Apartments

§ 220-56. Purpose.

- The purpose of the in-law/accessory is to provide a housing alternative for a family member(s) while maintaining the health, safety and neighborhood aesthetics and quality.

§ 220-57. General Requirements.

In-law/accessory apartments are allowed if they comply with the following:

- The in-law/accessory apartment shall be designed so that the appearance of the building remains that of a single-family dwelling. Any new entrances shall be located on the side or in the rear of the building.
- The single-family dwelling shall not be a mobile home or a condominium.
- The size of the in-law/accessory apartment shall be between 400 and 800 square feet.

D. The first occupant of an in-law apartment must be a family member.

- Only one bedroom is permitted in the in-law/accessory apartment
- In no case shall there be more than two people residing within an in-law/accessory apartment.
- The structure and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the existing single-family dwelling.
- Prior to granting a building permit for a new in-law/accessory apartment or a certificate of occupancy for an existing in-law/accessory apartment the property owner shall provide to the Building Inspector the following:
 - The applicant for a new in-law apartment, or an existing in-law apartment without a State approved septic design, shall provide the Building Inspector's Office with a State of New Hampshire approved septic design. Any septic design shall specifically call out the number of bedrooms in the primary dwelling and a one-bedroom in-law apartment. Prior to submission of any septic design to New Hampshire Department of Environmental Services, a test pit will be done and witnessed by the Town's Health or Deputy Health Officer and the proposed design shall be reviewed for compliance with all Zoning Ordinances.
 - A floor plan of one-fourth-inch-to-the-foot scale showing the proposed changes to the building.
 - A sketch plan (drawn to scale) of the lot, with existing and proposed structures and parking.
- All utilities in the in-law/accessory apartment shall use the existing utility meters.
- Once the initial family member(s) ceases to occupy the unit and prior to it being occupied as a rental unit, the property owner shall apply for a certificate of occupancy in the new tenant's name. Before a certificate of occupancy will be issued the unit shall be inspected for

compliance with building and life safety codes. A new certificate of occupancy shall be issued each time there is a change in tenancy.

- If a home with an in-law/accessory apartment is sold, the new property owner shall make an application to the Department of Building Safety for a certificate of occupancy for the new tenant, under the provisions in letters A through J in this ordinance.
- In-law/accessory apartments may be added to single-family residence, an attached garage, or a detached garage. The garage apartments may be added on the same floor as the garage proper or may be built as a second story to the garage.
- For lots exceeding 160,000 square feet, an in-law accessory apartment may be added as a stand-alone structure provided all other provisions of this ordinance are met.

INTENT: In 2013 the Planning Board proposed and the voters approved at Town Meeting the deletion the requirement for a Special Exception from the Zoning Board of Adjustment to permit an in-law/accessory apartment. This was done by deleting that requirement from the District Requirements Tables for LDR (§220-32F), MDR (§220-32E) and CII (§220-32C) VD (§220-32D) and ICR (§220-32G); however the references to the need for a Special Exception were never deleted from the actual In-Law/Accessory Apartment Ordinance. This proposed zoning amendment makes that housekeeping changes without changing any of the specific requirements of the ordinance.

Discussion:

There was discussion regarding clarification of what happens to an in-law apartment if the first relative tenant leaves. It was noted that the property owner could then rent the in-law apartment unit, obtaining a new occupancy permit for each new tenant.

There was also discussion on what happens to an in-law apartment if the property should be sold. It was noted that the first occupant of the in-law apartment when there is a sale, must be a relative of the new property owner, and the unit must still be in compliance with the ordinance as noted in Letter K of the ordinance.

R. Gray moved, second by G. Silva to post Proposed Zoning Amendment Z-14-8 to the Warrant. There was no discussion on the motion. The vote was 5-0-0 U/A.

At the conclusion of the Public Hearing on the Proposed Zoning Amendments S. Ranlett reiterated that all Articles will appear as "Recommended by the Planning Board" on the final Warrant.

Agenda Item 7: Report/Update by Tim Moore on RPC and MPO Activities and on the Rail Project

- **NHPA Legislative Alert Regarding Proposed Bill to Eliminate Regional Planning Commissions**

T. Moore reported on proposed Legislation that would be heard the next day that would eliminate all regional Planning Commissions and require the election of Municipal Planning Board Members (HB1573-FN). He noted that planning associations and people, such as Cliff Sinotte of the Rockingham Planning Commission, were sending letters and testifying in opposition to the proposed change. T. Moore added that a similar Bill had been proposed last year and was defeated in the face of heavy opposition. He added that even the sponsor of the bill didn't think it had much chance of passing, but it was still important to voice opposition. T. Moore noted that he wasn't sure what the motivation was behind the proposed change.

There was a discussion regarding the wording of the Bill, which was noted to be poorly written, as

well as the hearing process.

Agenda Item 6: Reading and Communications Directed to or from the Board.

- **Review and Discussion regarding letter from the Town Manager to Scott Sullivan, resident at 3 Old County Road responding to his concerns about activities at 51 Kingston Road**

S. Ranlett noted there were letter received from Scott Sullivan, 3 Old County Road, regarding operations at 51 Kingston Road (ProBark/Mayer Tree site). S. Ranlett added that the Town has taken a number of steps regarding this site including:

- Public Hearings
- Public comment and input
- Noise and other testing
- Inspections of the site

S. Ranlett offered that despite all the due diligence Mr. Sullivan was still not happy with the noise from the site.

L. Komornick added there was also a letter from Sam Cafiso, 52 Kingston Road, with similar concerns regarding the site.

S. Ranlett explained that there were meetings with L. Komornick, S. Fitzgerald and Town Counsel Sumner Kalman regarding this matter and the appropriate response. It was noted that the Town Manager would be working on the response letter to Mr. Sullivan, which would contain two signature blocks, one from the Town Manager and one from the Planning Board.

There was additional discussion regarding the situation between the operations at 51 Kingston Road and the abutting residential neighbors. There was a letter from Planning Board Attorney Charles Cleary outlining all the steps that have been taking to date regarding this site and the due diligence that the Planning Board has done to mitigate the impact. It was noted that ProBark is a legally operating business located in the Industrial District. Two tests, years apart, had shown that there was no unreasonable noise impact from the permitting operations on the site. It was noted that ProBark has worked with the Town regarding every request for testing, inspection and mitigation.

There was discussion as to whether or not the “obnoxious uses” ordinance needs to be reviewed and possibly amended. It was noted that as is the ordinance opens the door to investigation when there’s a complaint.

There was discussion as to whether or not the ordinances or site plan regulations should be reviewed and amended to include additional mitigation and protections when the Residential district abuts the Industrial district.

Agenda Item 8: Other Business

- **Proposed Methadone Clinic in Haverhill (Next to Laundromat)**

S. Ranlett explained that he wanted to poll the Board as to whether or not the Planning Board would be added to a list of those in opposition to the proposed Haverhill methadone clinic. He cautioned that Plaistow does have clinics that dispense narcotic prescriptions and there could be

concerns over cross-border initiatives if the Planning Board goes on record in opposition.

There was discussion regarding the pros and cons of taking an official position on the location of the clinic, which is in the former daycare, next to the Laundromat, just over the Plaistow line in Haverhill.

There was discussion regarding the location and the impact on Plaistow property values as well as municipal services such as the Police Department. It was noted that the opposition was not to the need for a methadone clinic, but to that particular location. It was suggested that such a clinic might be better located near a hospital. Caution was advised regarding interfering with the decisions of another jurisdiction. Equal frustration was expressed that Plaistow wasn't included in any discussions on a plan with obvious regional impact.

L. Komornick noted that Plaistow is an abutter and she would have hoped to have been notified of any meetings where this matter was discussed. She added that she had spoken with C. Cleary and he cautioned that under the current ordinances Plaistow would have had to allow the clinic as it is a permitted use. L. Komornick offered that her frustration was that Plaistow was not included in the process.

R. Gray suggested that if an applicant came to Plaistow with a permitted use the Planning Board could find a way to deny the application if it was felt that it was not in the right place.

It was noted that public hearing were not held on the matter. It was likened to schools not needing permission to move forward. There was additional frustration regarding the lack of proper forums, feeling that due process had been circumvented.

L. Komornick requested to be directed to send a letter to Haverhill Planning regarding being included in the process and provide input.

S. Ranlett suggested that a letter be drafted and sent to all members for comment.

- **Updates and FYIs form the Planning and Building Departments**

L. Komornick noted that she had a Mylar for Chairman Ranlett to sign.

There were no additional matters before the Board and the meeting was adjourned at 8:30 p.m.

Respectfully Submitted as recorded by Dee Voss.

Approved by the Planning Board on _____

Steven Ranlett, Chair