



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

PB Minutes 12/03/14

PLANNING BOARD MINUTES December 03, 2014

Call to Order: 6:34 p.m.

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

G. Adams was appointed as a voting member for S. Kellogg.

Agenda Item 2: Minutes of November 19, 2014 Planning Board Meetings

G. Silva motioned, second by G. Adams, to approve the minutes of the November 19, 2014 meeting. There was no discussion on the motion. The vote was 3-0-1 (Moore abstaining).

Agenda Item 3: Public Hearing: An application for a Condominium Plan for an existing shopping center located at 3-11 Plaistow Rd, Tax Map 24, Lot 38, in the Commercial I (CI) District. The owner of record is Taurus Plaistow Investors Limited Partnership.

Ed Vydra, Taurus Limited Partnership was present for the public hearing.

E. Vydra explained that they were resubmitting the condominium plans with updates for existing conditions as of October 27, 2014. He noted that proposal is to establish Walgreen's as its own unit from an ownership standpoint.

It was noted that the associates by-laws, easements and condo documents have all been reviewed and approved by Planning Board Counsel.

T. Moore asked if the Board had any questions, there were none. There was no one present in the gallery for this public hearing.

C. Lanza motioned, second by G. Silva, to accept the condominium plan for 3-11 Plaistow Rd, Taurus Plaistow Investors as complete. There was no discussion on the motion. The vote was 4-0-0 U/A.

C. Lanza motioned, second by G. Silva, to approve the condominium plan for 3-11 Plaistow Rd, Taurus Plaistow Investors. There was no discussion on the motion. The vote was 4-0-

0 U/A.

Agenda Item 4: Workshop on Zoning Amendments

T. Moore noted that the first couple of ordinance reviews were suggested by Planning Board Attorney Charles Cleary after review of the Town's Ordinances. The next group of proposed amendments was suggested by the Department of Building Safety. The last one was review of the Aquifer Protection Ordinance as suggested by Normandeau Associates, who are working with the Town on Stormwater Management and Source Water Protection.

T. Moore noted that if the Board could agree on which to move forward and the language they could be posted for Public Hearing on December 17.

It was noted that the numbering was for discussion purposes only. The final proposed amendments would be sequentially renumbered before being posted to the Warrant.

Proposed Plaistow Zoning Amendment: Z-15-1

Are you in favor of amending the Zoning Ordinance by modifying Article V Establishment of Districts and District Regulations; Table 220-32A, Industrial by deleting the words referencing "bank" from sections D, E and F.

INTENT: Since banks are not a permitted use in the Industrial District this is a housekeeping change.

Article V. Establishment of Districts and District Regulations; Table 220-32A currently reads:

D. No certificate of occupancy for any bank or bank kiosk use may be granted before at least one certificate of occupancy has been issued for an industrial use.

E. In an industrial development, no more than 10% of the total building footprint for the development can be used for bank or bank kiosk uses.

F. The intent of allowing a bank or bank kiosk in an industrial zone is to provide a convenient service for the employees of the industries in the industrial zone.

If amended would read:

D. No certificate of occupancy for ~~any bank or~~ bank kiosk use may be granted before at least one certificate of occupancy has been issued for an industrial use.

E. In an industrial development, no more than 10% of the total building footprint for the development can be used ~~for bank or~~ bank kiosk uses.

F. The intent of allowing a ~~bank or~~ bank kiosk in an industrial zone is to provide a convenient service for the employees of the industries in the industrial zone.

Reason for proposed change:

Housekeeping: At the last review of this district it was determined that full service banking was not a compatible use with an industrial district. In order to provide a service to the employees of the district "bank kiosks" which would most likely not have a big public draw where left as a permitted use. Sections D, E and F still reference banks,

Discussion:

G. Adams asked what the difference was between a bank and a bank kiosk and whether or not an occupancy permit would be required for a bank kiosk.

It was suggested that the word occupancy permit be changed to “building permit” in section D. There were also some minor grammatical changes suggested to read as follows:

“D. No building permit for any bank kiosk use may be granted before at least one certificate of occupancy has been issued for an industrial use.

E. In an industrial development, no more than 10% of the total building footprint for the development can be used bank kiosk use.

F. The intent of allowing a bank kiosk in an industrial zone is to provide a convenient service for the employees of the industries in the industrial zone.”

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### ***Proposed Plaistow Zoning Amendment: Z-15-2***

***Are you in favor of amending the Zoning Ordinance by deleting Article IX, §220-59C, Identification signs for shopping centers and industrial parks, in its entirety.***

***INTENT: The section is word-for-word repetitious of §220-58C and is not necessary.***

#### **Reason for proposed change:**

Housekeeping: §220-58C and §220-59C are word-for-word identical and one should be deleted.

- Identification signs for shopping centers and industrial parks
  - A shopping center or industrial park may have one common sign containing a registry of all tenants/occupants provided the following requirements are met:
    - It is a freestanding sign.
    - The names of individual tenants/occupants shall appear in letters of uniform style and size.
    - It shall not exceed 25 feet in height, inclusive of the structure supporting the sign.
    - The total area of the sign and structure shall not exceed 150 square feet, with the air space below the sign calculated as part of the 150 square feet.
    - It shall be located within the front buffer and 100% on the property to which it pertains and constructed so as not to impair site distance or traffic safety.
    - Illumination of the sign, whether internal or external, shall not create conditions that are dangerous to the comfort, peace, enjoyment, health, or safety of the community or lend to its disturbance or annoyance.

#### **Discussion:**

There was no discussion on this proposed amendment.

There was discussion on proposing to allow for larger signs to identify residential subdivisions, which are currently limited to three (3) square feet.

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Suggested by Department of Building Safety:

Proposed Plaistow Zoning Amendment: Z-15-3

Are you in favor of amending the Zoning Ordinance “Article III, General Provisions, §220-8.1 Residential Garages” by adding a Letter C to read:

“C. Barns on residential lots of greater than 10 acres and use for agricultural purposes are exempt.”

INTENT: To amend the ordinance to meet the needs of agricultural uses

Reason for proposed change:

In 2002 this Residential Garage ordinance was passed. This restricted size totals of garage/barns on residential properties based upon the size of the lot. The intent was to prevent large garages from being built and the evolving into under-the-radar commercial businesses. However, the passage of the ordinance unintentionally made a number of complaint properties non-compliant and unable to expand their agricultural uses without having to take their chances with applying for a variance (i.e. Cox Farm, Goudreaults, 148 Main St and Hoyt Farm). This amended would rectify that making them all compliant again and not restrict the size of barns on 10+ acre parcels that are used agriculturally.

Discussion:

The discussion on this proposal was regarding the 10 acre minimum. It was suggested that the number be changed to 5 acres. There was also a small grammatical change made.

The ordinance if posted will read:

Proposed Plaistow Zoning Amendment: Z-15-3

Are you in favor of amending the Zoning Ordinance “Article III, General Provisions, §220-8.1 Residential Garages” by adding a Letter C to read:

“C. Barns on residential lots of greater than 5 acres and used for agricultural purposes are exempt.”

INTENT: To amend the ordinance to meet the needs of agricultural uses

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***Proposed Plaistow Zoning Amendment: Z-15-4***

***Are you in favor of amending the Zoning Ordinance “Article IX, Signs, §220-58.D All Districts” to read as follows:***

***“All free standing 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 uses in the 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 space required for the address portion of the sign shall not be counted as part of the required sign size.”***

***INTENT: In 2012 the ordinance was amended to include the address rider for free standing signs for commercial uses in CI, ICR and all residential uses in all districts. The purpose was easier location recognition for emergency responders. CII and VC were overlooked at that time. This amendment would correct that omission.***

Reason for proposed change:

Current Ordinance Reads:

All free standing 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 uses in the CI and ICR Districts and a minimum of three inches for signs for residential uses in all Districts. The space required for the address portion of the sign shall not be counted as part of the required sign size.

There are no provisions for CII and VC Districts.

The requirement for the street address rider has been well received by the business community. It has been a great aid not only to emergency responders but has helped consumers find the location they are seeking much easier, thus contributing to traffic safety.

**Discussion:**

It was noted that the Industrial Zone was also omitted.

G. Adams suggested that all signs required to be 3” be grouped in the same sentence of the section.

D. Voss noted that as an end-user of the ordinance it was better to have the residential called out from the CII and VC district requirements.

If approved the proposed amendment will read:

***Proposed Plaistow Zoning Amendment: Z-15-4***

***Are you in favor of amending the Zoning Ordinance “Article IX, Signs, §220-58.D All Districts” to read as follows:***

***“All free standing 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 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 space required for the address portion of the sign shall not be counted as part of the required sign size.”***

***INTENT: In 2012 the ordinance was amended to include the address rider for free standing signs for commercial uses in CI, ICR and all residential uses in all districts. The purpose was easier location recognition for emergency responders. I1, I2, CII and VC were overlooked at that time. This amendment would correct those omissions.***

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Proposed Plaistow Zoning Amendment: Z-15-5

Are you in favor of amending the Zoning Ordinance “Article IX, Signs, §220-60 Commercial II District” to include the Village Center District.

INTENT: The Village Center was once an overlay of a portion of the Commercial II. As such all signage requirements were the same as the Commercial II District. When the Village Center became its own District no sign requirements were established. Since the area is the same it makes sense that it should follow the same requirements as the Commercial II District.

Reason for proposed change:

Housekeeping: When the VC District was changed from an overlay of the CII to its own district signage requirements were overlooked. This corrects that omission.

Discussion:

There were no changes made to this proposed amendment.

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***Proposed Plaistow Zoning Amendment: Z-15-6***

***Are you in favor of amending the Zoning Ordinance “Article IX, Signs, §220-65 Permit Required” by adding a new Letter C to read:***

***C. All internally lit signs must be UL listed***

***INTENT: To require all internally lit signs be UL listed for safety***

Reason for proposed change:

While it is part of the Electrical Code, and it should be common sense, that all internally lit signs be UL listed having it called out in the ordinance will reinforce this requirement.

**Discussion:**

It was noted that this was already a requirement of the Electrical Code. The Building Inspector is asking that it be added to the Zoning Ordinance for additional enforcement authority.

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Proposed Plaistow Zoning Amendment: Z-15-7

Are you in favor of amending the Zoning Ordinance by modifying “Article V Establishment of Districts and District Regulations; Table 220-32C.C(6) Commercial II; Table 220-32D.C(6) Village Center; Table 220-32E.C(7) Medium Density Residential; Table 220-32F.C(7) Low Density Residential; Table 220-32G.C (8) Integrated Commercial Residential District; and 2220-32H.C(6)” by deleting the word “coops” and adding a new sequential number in each district table to read:

”Chicken coops and rabbit hutches, less than 120 sq ft footprint, are exempt from the 100 foot setback requirement, but must comply with all building setback requirements of §220-32I”

INTENT: The requirement for chicken coops and rabbits to meet a 100 foot setback is overly burdensome for these small types of animals. This seeks to relieve this requirement for smaller animals while still offering protection for the abutters.

Reason for proposed ordinance:

Since the 100 foot restrict has been in place the Department of Building Safety has received a number of complaints about residents being unable to have chickens because they cannot meet the setback. We do not feel that chickens, rabbits, etc have the same concerns for abutters as horses, pigs and cows do, therefore we are proposing this amendment.

Discussion:

There was much discussion about what additional small animal structures might become a future issue with this ordinance change. Suggestions for changing the words to be more generic were discussed, but nothing seemed appropriate. The discussion ended with leaving the wording as is and seeing if adjustments are needed in the future once the ordinance is in place.

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***Proposed Plaistow Zoning Amendment: Z-15-8***

***Are you in favor of amending the Zoning Ordinance “Article III, General Provisions, by adding a new §220-11.1 “Commercial Business Hours of Operation” to read:***

***“Hours of operation for any commercial or industrial uses in all districts shall be reviewed and approved by the Planning Board as part of the site plan approval process and noted on the approved site plan.”***

***INTENT: To show a distinction between construction hours and business hours of operation. This will also insure that there is review and oversight of a commercial business’ hours of operation.***

Reason for proposed change:

The construction hours have long been referred to when a complaint has been received regarding a business’ hours of operation. The proposed change is intended to create a distinction between the two and give clear oversight to the Planning Board regarding review and approval of hours of operation.

**Discussion:**

It was noted that this has been a long-standing issue for code enforcement as there was no distinction between “construction hours” and business hours of operation. It is suggested to be put in the Ordinances instead of Site Plan Regulations so that it a requirement and cannot be waived.

There was also discussion about the placement of the proposed amendment as §220-11.1. The suggestion was having it located near the construction hours ordinance (§220-11) would be a logical placement to show the distinction between the two.

It was noted that the Industrial uses should be included in the proposed change.

If approved by the Planning Board the proposed change would read:

## ***Proposed Plaistow Zoning Amendment: Z-15-8***

***Are you in favor of amending the Zoning Ordinance “Article III, General Provisions, by adding a new §220-11.1 “Commercial/Industrial Business Hours of Operation” to read:***

***“Hours of operation for any commercial or industrial uses in all districts shall be reviewed and approved by the Planning Board as part of the site plan approval process and noted on the approved site plan.”***

***INTENT: To show a distinction between construction hours and business hours of operation. This will also insure that there is review and oversight of a commercial and industrial business’ hours of operation.***

### **Aquifer Protection District Ordinance Proposed Changes:**

T. Moore noted that the Town is working updating the Aquifer Protection District as part of a Source Water Protection grant. He read through the proposed changes. Discussion in noted throughout.

***Note all proposed new text is shown in bold text, all proposed deleted text is shown as strikethrough text.***

**Article Z-15-9:** Are you in favor of the adoption of an amendment as proposed by the Planning Board to the Plaistow Zoning Ordinance by adding definitions to Article II as described below?

**Aquifer – A geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.**

**Petroleum Bulk Plant Or Terminal – Means that portion of the property where petroleum products are received by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container.**

**Groundwater – The subsurface water that occurs beneath the water table in soils and geologic formations.**

**Gasoline/Fueling station – Means that portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purpose of retail sales.**

**Impervious – Means does not readily permitting the infiltration of water.**

**Impervious Surface – Means a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete (unless unsealed cracks or holes are present), Asphalt, earthen, wooden, or gravel surfaces or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.**

### **Discussion:**

It was suggested that the language for the list of what is considered impervious was very confusing and needed to be re-worded. It was suggested it would be better to just state the definition and then get rid of the clutter.

**Outdoor Storage – The storage of materials where they are not protected from the elements by a roof, walls, or a floor with an impervious surface.**



**Public Water System** – A system for the provision to the public of piped water for human consumption where such a system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

**Regulated Substance** – Petroleum, petroleum products, and substances listed under federal regulation 40 CFR 302, 7-1-90 edition, excluding the following substances: (1) ammonia, (2) sodium hypochlorite, (3) sodium hydroxide, (4) acetic acid, (5) sulfuric acid, (6) potassium hydroxide, (7) potassium permanganate, and (8) propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure.

**Sanitary Protective Radius** – The area around a well which must be maintained in its natural state as required by Env-Ws-378 or 379 for community water systems and Env-Ws-372.13 for other public water systems.

**Seasonal High Water Table** – The depth from the mineral soil surface to the upper most soil horizon that contains 2% or more distinct or prominent redoximorphic features that increase in percentage with increasing depth as determined by a licensed hydrologist soils scientist, wetlands scientist, engineer or other qualified professional approved by the Planning Board.

**Secondary Containment** – A structure such as a berm or dike with an impervious surface that is adequate to hold at least 110% of the volume of the largest regulated-substance container for which the secondary containment will provide spill containment.

**Snow Dump/Snow Storage Area** – For the purpose of this ordinance this area is a location(s) where snow, which is cleared from roadways, sidewalks, and parking areas is placed for disposal.

**Stratified-Drift Aquifer** – A geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, that contains sufficient saturated permeable material to yield significant quantities of water to wells.

**Surface Water** – Any stream, river, lake, pond, or tidal water including marshes, watercourses, and other bodies of water, natural or artificial.

**Wellhead Protection Area** – The surface and subsurface area surrounding a water well or well field supplying a community public water system, through which contaminants are reasonably likely to move toward and reach such water well or well field.

**Article Z-15-10:** Are you in favor of the adoption of amendments as proposed by the Planning Board to the Plaistow Zoning Ordinance by modifying Article XIX, Aquifer Protection District as described below?

**§220-131, Authority and Purpose,**

Modify the introductory paragraph by changing “potential groundwater sources” to “potential **and existing** groundwater sources”.

Modify Paragraph F by changing “plant habitats and wetland ecosystems” to “plant habitats, wetland ecosystems, **and surface waters that are supplied by groundwater.**”

**§230-132, District Boundaries,**

Replace Paragraph (2) with the following new text:

**“The Aquifer Protection District as shown on the Town of Plaistow’s Aquifer Protection District Map (2005) includes the areas containing the following aquifer materials: Coarse**

## **Grained Stratified and Coarse Grained overlaying Fine Grained Materials.**

Add a new Paragraph (3) as follows (formerly the 2<sup>nd</sup> sentence of paragraph 2).

**(3) The Aquifer Protection District is a zoning overlay district that imposes additional requirements and restrictions to those of the underlying, base district. In all cases, the more restrictive requirement(s) shall apply.**

Add a new paragraph (4) to section §220-135.B. Hydrogeologic Study as follows:

**(4) In cases of new development or redevelopment where the hydrology of a site is already known via previous studies or contamination identification, the Hydrogeologic study may consist of collecting previous studies and reports and submitting them to the Planning Board for consideration. The Planning Board can find these studies and reports to be acceptable or may require a more complete Hydrogeologic study be undertaken.**

Add a new paragraph to section §220-135 as follows:

**G. For uses that involve the storage of large volumes (greater than 100 gallons) of regulated substances a Spill Prevention And Control Countermeasure (SPCC) Plan must be reviewed by a local emergency official (fire chief, health officer, or emergency management director). All deficiencies found during the review must be corrected before the Planning Board can grant approval.**

### **Discussion:**

There was discussion as to what kind of tanks this would refer to such as oil tanks, liquid petroleum tanks and whether there were others that should be clarified and called out in this section.

C. Lanza questioned what the Town was administratively prepared to do.

G. Adams questioned what constituted “regulated” in the description.

There was discussion of different chemicals and their potential to affect the Aquifer Protection District.

**Add a new section describing performance standards and Best Management Practices (BMPs) as below:**

### **§220-135.1 Performance Standards.**

- **Impervious Surface Area – No more than 15% of the land area over an aquifer with a saturated thickness of greater than 20 feet and a transmissivity of greater than 1,000 feet squared per day.**

### **Discussion:**

There was discussion regarding the greater than 20 feet of saturated thickness requirement.

T. Moore noted that the number was from the Aquifer Protection maps

C. Lanza suggested that the requirement was outlandish and placed an unreasonable burden on the applicant. He offered that it was arbitrary and the maps tend to be inaccurate. He suggested deleting the 20 feet requirement and going with a specific transmissivity.

There was discussion regarding that accuracy of the maps and whether the issue could be resolved by requiring a hydrogeological study.

- **A Stormwater management plan must be prepared for conditional uses or any use that will render more than 15% of lot coverage or more than 2,500 square feet of any lot.**
- **All operations involving the transferring of storing gasoline, oil, solvents or other harmful (regulated) substances must comply with the NH State regulation Env-Wq 401.**
- **All transfers of petroleum or fuels and storage containers storing five (5) or more gallons must be conducted over an impervious surface.**
- **Where uses involve storing animal manures, fertilizers, and compost the NH Department of Agriculture, Markets, and Food Best Management Practices should follow guidelines in agricultural BMPs.**
- **All blasting activity must follow guidelines in NH Department of Environmental Services BMPs.**
- **All inactive wells must be decommissioned in accordance with WE 604, NH Water Well Board Rules to prevent contaminants from making their way to groundwater through the well.**
- **All expansion or redevelopment activities will require an amended Stormwater management plan. Stormwater infiltration must not pass through areas containing contaminated soils without a favorable outcome from the completion of a Phase 1 Environmental Site Assessment.**

Add a new section that specifies an enforcement authority for the provisions contained in this ordinance as follows:

**§220-135.2 Enforcement Authority.**

- **The Code Enforcement Officer shall have enforcement authority for all local regulations of this ordinance.**
- **All Plaistow enforcement procedures and policies shall also apply to this ordinance when a violation is confirmed by the Code Enforcement Officer.**

C. Lanza suggested that T. Moore take their comments back to Normandeau and talk about some revisions.

T. Moore noted that the Conservation Commission would be looking at the same proposal and he was certain they would have comments as well.

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Agenda Item 5: Update from Tim Moore on RPC and MPO doings

Nothing to report at this meeting

Agenda Item 6: Correspondence

There were two items noted for the Board:

- A copy of the Rockingham Planning Commissions Draft Regional Master Plan
- A Notice of Hearing from the City of Haverhill regarding acceptance of Riverdale Avenue Extension as a public way

Agenda Item 7: Other Business

T. Moore noted that he had been discussion different support options for the Planning Board with Town Manager, Sean Fitzgerald. He added that they would be getting an Interim Professional Planning in to support the Board while it was decided what to do in the long term.

There were no additional matters before the Board and the meeting was adjourned at 7:50 p.m.

Respectfully Submitted as recorded by Dee Voss.

Approved by the Planning Board on _____

Tim Moore, Chair