



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

PB Minutes 12/4/13

PLANNING BOARD MINUTES December 4, 2013

Call to Order: 6:30 p.m.

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

Also present were: Geoffrey Adams, Alternate and Leigh Komornick, Planner

Minutes of November 20, 2013 Planning Board Meeting

Review of the minutes was deferred to the next meeting.

Item 4: Request from Panera Bread to Delay Planting Landscaping

S. Ranlett read a letter from Eaglebrook Engineering & Survey, LLC requesting to delay the planting of landscaping until the weather is warmer. It was noted in the letter that there was a discussion with the Board at the November 6, 2013 meeting to allow a Certificate of Occupancy to be issued without the landscaping being complete. The letter noted that exposed areas will be stabilized through the winter.

It was discussed that the plantings would have a great chance of surviving if they were planted in the spring. The Board discussed holding a portion of the bond until all the plantings are completed. There was also a discussion regarding setting a deadline date for the plantings to be installed.

R. Gray moved, second by Genifer Silva, to grant the request from Eaglebrook Engineering and allow the landscaping to be deferred until June 1, 2013, with a sufficient bond to be held until the completion of the plantings. There was no discussion on the motion. The vote was 5-0-0 U/A.

S. Ranlett noted that they were going to skip down to Item 7 to have a discussion with Chet Sullivan, CMS Sullivan, Inc, regarding issuance of Occupancy Permits for a couple of dwellings on Village Way.

L. Komornick offered that she felt that this matter was a day or two away from being finalized so that occupancy permits could be issued. She noted that there was a concern from the Planning Board Attorney that if occupancy permits were issued there would be no urgency to complete the items to finalize this project.

C. Sullivan noted that he was requesting that the Board allow two temporary occupancy permits to

be issued on Village Way. He noted that he had already returned one deposit check and one buyer was living with her broker and another was living with their parents.

S. Ranlett noted there shouldn't be a problem with getting occupancy permits through the normal process if everything was just a day from being resolved.

C. Sullivan noted that once all the issues were resolved he then had to convey with Henry Torromeo to own the property and then he would be conveying it to the new owners, which may take a week or so.

R. Gray suggested the timeline to convey the deeds was not a Town issue.

L. Komornick offered that the whole project had been a mish-mash and she suggested the Board could word a motion that would allow Certificates of Occupancy to be issued immediately upon completion.

C. Sullivan noted that he had spoken with his insurance company and he was covered under his builder's insurance for 90 days. He added that the new home owners would be covered as well. Mr. Sullivan offered he was just trying to help these people get in their homes before the holidays.

L. Komornick explained that everyone had been working very hard to get this wrapped up and the only existing item was the water easement between Little River and Stonebridge.

There was additional discussion of the items that were needed to complete this project. There was concern expressed that issuing even temporary occupancy permits would give the excuse to someone to drag their feet in the process.

L. Komornick suggested that the Board consider allowing temporary occupancy permits upon recording of the documents.

R. Gray said that he could be okay if there was good faith effort being shown to finalize this project.

L. Komornick added that Attorney Cleary (Planning Board Counsel) could be consulted to make sure he was comfortable with all the documents.

T. Moore suggested that as long as all documents are in hand people could be allowed to move in.

T. Moore moved, second by R. Gray, to allow 30-day temporary occupancy permits to be issued if all documents are received in the Planning Office and Attorney Cleary is satisfied with them. There was no discussion on the motion. The vote was 5-0-0 U/A.

L. Komornick noted that Little River had finalized with Hampstead Area Water Company (HAWC) regarding maintaining the water supply. She noted that there was nothing in the PRD (Planned Residential Development) Ordinance that prohibited HAWC from drawing water from the site to service their other customers. She cited an example from the Twin Ridge Condos on Culver Street that allowed for water to be drawn off the property.

There was discussion regarding a project in Newton with similar circumstances. There was discussion whether or not the Board should consider amending the PDR ordinance to address and/or prohibit the issue of drawing water off from a PRD. It was suggested that there is enough State regulation involved with water issues that it wasn't necessary for there to be additional ordinance review. It was offered that the Twin Ridge documents noted that in the event of a water shortage, Twin Ridge would have first rights to their own water.

Item 5: A Public Hearing on an application for the Condominiumization of a Final Site Plan

Application by Hillcrest Estates, LLC for the construction of a 34-unit Elderly Housing Project as approved by the Planning Board on March 17, 2010. Access to this project will be through an extension of Hillcrest Avenue in Plaistow. The property is identified as Tax Map 58, Lot 6 and is 23.11 acres. The owner of record is Hillcrest Estates, LLC.

Attorney John Cronin, Cronin, Bisson and Zalinski, was present for the hearing.

J. Cronin noted that this project has been in the works for some time. He noted they were on track to get the site paved. Attorney Cronin explained that the application was before the Board to have the condominium form of ownership approved. He referenced a list of nine (9) housekeeping issues provided by Attorney Cleary which he stated could all be very quickly addressed.

L. Komornick noted that she had been working with both Attorney Cleary and Attorney Cronin to get the issues with this site addressed as quickly as possible. She noted that the condominium plans showed all the details required by statute and the information ties together with the declaration and the by-laws and once everything is recorded this project will become a condominium. L. Komornick add that once that happens the applicant can then submit to the Attorney General's office for their final approval and will be able to provide any buy with the proper information.

S. Ranlett asked if there was anyone who had a question or a comment.

Lola Gani, 14 Country Club Lane, noted that they have cut down a lot of trees to put in the roadway and she would like to see something like a fence or something to be installed to restore her privacy.

L. Komornick noted that this hearing was strictly to consider the issue of Condominiumization, if there were issues related to the implementation of the site plan then people should contact the Department of Building Safety in writing. She added that it was her understanding that everything thus far was being done in accordance with the approved plan.

S. Ranlett reiterated that this hearing was related to the condo documents and the Board needed to stay on that topic.

J. Cronin offered that he would be happy to speak with anyone after the hearing if they were having a problem.

Kathy McCormack, 10 Hillcrest Ave, noted they had recently moved to their current home. She asked if this hearing meant that this would no longer be a retirement community and would be open to anyone.

J. Cronin replied that this hearing did not waive the 55+ requirements it just changed the form of ownership of the individual units. He added that the 55+ requirements are in definitely in the condo documents and the plan.

K. McCormack noted that this many units were going to make Hillcrest a very busy road.

L. Komornick asked if they were aware that this project was approved when they purchased their house.

Brad McCormack, 10 Hillcrest replied that they were aware.

There were no additional comments on the application.

T. Moore moved, second by R. Gray to conditionally approve the Condominiumization plan

conditioned on satisfying all the issues outlined by Attorney Cleary in his December 3, 2013 email to L. Komornick. Attorney Cleary will need to verify that all outstanding issues have been addressed.

R. Gray asked that it be clear in the motion that Attorney Cleary needs to be satisfied that all the issues have been addressed.

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

Item 6: Continuation of Review of Proposed 2014 Zoning Amendments [Continued from November 20, 2013 Meeting].

Proposed Plaistow Zoning Amendment: Z-14-1

Are you in favor of amending the Zoning Ordinance by changing the current C1 zoning to C2 zoning in general area of Danville Road as shown on the map below?

**** Map to be included along with a specific list of affected parcels.
[Intent: To allow mixed uses on Danville Road]**

Board requested that an overlay be looked at to accomplish this purpose

Discussion:

T. Moore offered that language was coming to describe an overlay that would allow mixed (residential/commercial) uses and the map to show where the overlay was in effect.

S. Ranlett asked if it was intended to include both Commercial I and Commercial II uses.

There was discussion regarding this area and the uses that would be allowed. There was initially some confusion regarding the intent, which was thought to be to add Commercial II District uses to this area. It was clarified that the intent was not to change the permitted use but to add the possibility of combined residential/commercial use for the allowable uses already in place.

There was discussion as to which parcels would be covered by this overlay. L. Komornick was asked to provide a map for the public hearing showing which parcels were involved. It was suggested the overlay not go any farther south on Danville Road than the intersection of Greenough Road. This was suggested because the parcel on the southern corner of that intersection was owned by the American Legion and could not be developed commercially per their deed.

S. Ranlett asked what the advantage of this amendment would be.

R. Gray suggested that it would be reflecting reality of the existing uses.

T. Moore offered it would allow the possibility of someone to live over the shoe shop. He added that listing by individual parcels could be a problem.

L. Komornick stated that she would work with T. Moore on amended language for the printed Warrant Article.

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.]

There was no discussion on the proposed amendment and it will be posted for public hearing on December 18, 2013

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.]

There was no discussion on the proposed amendment and it will be posted for public hearing on December 18, 2013

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]

Discussion:

L. Komornick asked why the language was worded as “access rights-of-way” instead of “driveways.”

T. Moore replied that if you looked at the language for the PRD there could be two roads.

S. Ranlett added this guarantees spacing.

L. Komornick noted the actual ordinance reads “private rights-of-way” and questioned if this language should match.

There was no additional discussion on the proposed amendment and it will be posted for public hearing on December 18, 2013

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.]

Discussion:

S. Kellogg questioned the need to have the requirement of attorney review of the documents and why there couldn't review by the Planning Board or an option for the Planning Board to send them to the attorney.

R. Gray suggested that if it's optional then an applicant may balk at paying attorney fees if the choice is to send them out for review.

There was also discussion of qualifications to adequately review legal documents and whether or not there was a liability to the Town with just a staff or Board review.

There was no additional discussion on the proposed amendment and it will be posted for public hearing on December 18, 2013

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.]

There was no discussion on the proposed amendment and it will be posted for public hearing on December 18, 2013

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 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 dwelling unit.]

Discussion:

G. Adams asked if there was the option to apply for a variance if someone wanted to have more than one home occupation. It was confirmed that a variance would be the proper avenue for relief.

There was no additional discussion on the proposed amendment and it will be posted for public hearing on December 18, 2013

Proposed Plaistow Zoning Amendment Z-14-8

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

PROPOSED ZONING AMENDMENT

~~**Deletions are in bold-strikeout**~~

Additions are in bold italics

PLAISTOW CODE

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 ~~by special exception~~ 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.
- The dwelling to which an in-law/accessory apartment is to be added must be and continue to be owner-occupied for the twelve-month calendar year preceding the date of application. The twelve-month requirement for owner residency need not apply in cases of title transfer or home construction.
- 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 special exception by the ZBA, the owner shall provide, as part of the ZBA case file,~~ *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:
 - Evidence to the Building Inspector that septic facilities are adequate for both units according to the standards of the town and the New Hampshire Water Supply and Pollution Control Division. If deemed necessary by said Inspector, such evidence shall be in the form of certification by a State of New Hampshire licensed septic system designer. Also the owner shall provide evidence that there is adequate potable water according to the standards of the State of New Hampshire. The Building Inspector then shall indicate his approval in writing to the ZBA.
 - 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 ~~that had a special exception permit for~~ *with* an in-law/accessory apartment is sold, ~~the permit shall cease to exist.~~ *The new property owner shall make an application to the Zoning Board of Adjustment 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.

There was no discussion on the proposed amendment and it will be posted for public hearing on December 18, 2013

Also need to....

- Define Contractors
- L. Komornick offered a dictionary definition that she had found for the word contractor.

The Board wasn't satisfied with the provided definition.

G. Silva "googled" contractor and found a better definition but it still wasn't what the Board was looking for.

L. Komornick offered that she would use PlanLink to ask other communities for the definition they use for "contractors."

Item 7: Updates on Projects Including Little River, Snow's Brook and Ron Brown

Both Little River and Snow's Brook were previously discussed earlier in the meeting.

Ron Brown (Falls at Gunstock)

L. Komornick reported that Ron Brown's attorney (Thomas MacMillan) had come by for an update on the Stop Work Order and Letter of Deficiency. Attorney MacMillan said that he would speak with his client about the issues that were discussed, including finding out why all the final documents have not been submitted for recording. L. Komornick noted that Mr. Brown again wanted to come to speak to the Board but was told that his issues were all enforcement related

and not Planning Board issues.

Item 8: Reading of Communications Directed to or From the Board

S. Ranlett noted there that a meeting was scheduled for December 11, 2013, to discuss updates with Mark Fougere, who has been contracted with to work on MasterPlan and Impact Fee updates. He added that T. Moore would not be available that night and that he felt it was important to have Tim's knowledge available for any discussion on updating either the MasterPlan or Impact Fees. S. Ranlett added that he didn't want to rush this process just to get a product.

T. Moore offered that high on the list should be updating the Recreation Impact Fees and suggested that M. Fougere be told to start working on that as is in the contract. He added that M. Fougere could come back after the first of the year and talk about the MasterPlan update and what can be done with the remaining funds.

R. Gray stated the reason the BOS wanted to see a product is because there was concern over seeing money in these lines in the budget each year and no product being produced. He said that he would be hard pressed to get more money added to these budget lines without concrete numbers on costs and what would be the product to support the request. He added that he would like to see each line adequately funded individually and not treated as a joint line. R. Gray agreed that the Recreation Impact Fees were the high priority to be updated.

There was additional discussion regarding what the Board felt where the priorities for updating and how best to address those priorities. It was noted that the School Impact Fee was based on solid parameters but it needed to have the numbers updated as they are out of date. There was discussion regarding how best to get the BOS to agree to propose more funding for MasterPlan updates and Impact Fee updates in the 2014 budget.

R. Gray asked L. Komornick to prepare some figures for him to bring to the BOS at their next meeting.

S. Ranlett suggested there was no reason to hold the special meeting on December 11 to bring Mark Fougere in for discussion. He noted that Board seemed to be in agreement that updating the Recreation Impact Fees was the pressing priority and he wanted that information relayed to Sean Fitzgerald.

There was discussion regarding setting up a review schedule for MasterPlan updates that would put chapters into a queue for updating, which if done more regularly would hopefully result in a less costly update. It was suggested that a schedule be created that each chapter be reviewed at least every 3-5 years.

It was noted that updating the Recreation Impact Fee was important to establish more solid methods for the calculations of the fees.

R. Gray noted that there were some members of the BOS who favored updating the MasterPlan.

T. Moore responded then they either needed to "give the money or be quiet and go away." He added that given the choice it was more important to get the Recreation Impact Fee on a solid methodology.

There was continued discussion regarding having M. Fougere start with the Recreation Impact Fee and then providing the BOS with information to support an increase in the MasterPlan and Impact Fee update budget lines.

R. Gray asked which chapter of the MasterPlan the Board felt should be first for review.

L. Komornick suggested the Vision Chapter.

There was discussion regarding possibly involving a University of New Hampshire student, which could potentially provide for a discount as well as support education.

Item 9: Report/Update by Tim Moore on RPC (Rockingham Planning Commission) Activities

T. Moore noted there was no update from RPC at this time.

Item 10: Other Business

• **Updates and FYIs from the Planning and Building Departments**

L. Komornick noted there was a copy of the Bond Estimate Sheet for Plaistow Center (Noted in error as Plaistow Commons on the worksheet).

L. Komornick asked that it be noted in the record that S. Ranlett would be signing the Voluntary Lot Merger Form for Hillcrest (Snow's Brook) which would be recorded.

S. Ranlett asked if the form had been reviewed by counsel.

L. Komornick replied that it had been.

L. Komornick added that she had received the signed Waiver of Liability for Hillcrest as well.

There were no additional matters before the Board and the meeting was adjourned at 8:27PM.

Respectfully Submitted as recorded by Dee Voss.

Approved by the Planning Board on _____

Steve Ranlett, Chair