



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

PB Minutes 12/18/13

PLANNING BOARD MINUTES December 18, 2013

Item 1: Call to Order: 6:33 p.m.

Item 2: ROLL CALL:

Steve Ranlett, Chair
Tim Moore, Vice Chair
Genifer Silva
Shem Kellogg
Robert Gray, Selectman Ex-Officio

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

Item 3: Minutes of November 20, 2013 and December 04, 2013 Planning Board Meetings

T. Moore moved, second by G. Silva, to approve the minutes of the November 29, 2013 meeting. There was no discussion on the motion. The vote was 5-0-0 U/A.

T. Moore moved, second by G. Silva, to approve the minutes of the December 04, 2013 meeting. There was no discussion on the motion. The vote was 5-0-0 U/A.

Item 4: A Public Hearing on an application for a Condominium Conversion plan for a duplex located at 2 Karl's Circle, Tax Map 42, Lot 23-3, totaling 1.95 acres with +/- 200 feet of frontage and located in the Medium Density Residential (MDR) District. The owner of record is Patuccawa Realty, LLC.

Present for the application were Realtor Patricia Bennett and Arthur Wicks of Patuccawa Realty, LLC.

P. Bennett explained the features of the condominium conversion plan including:

- The property is 1.95 acres
- There are two units in the condominium
- The Condominium Declaration and Bylaws have been submitted
- There are limited common areas indicated on the plan
- The floor plans for the units are indicated on the plan

T. Moore asked if Common Areas "A" was set up to go with Unit "A."

P. Bennett answered that they were reversed; common area "A" went with Unit "B." She said that 9-1-1 assigned the unit numbers after the condo documents were drawn up.

T. Moore moved, second by G. Silva. to accept the condominium conversion plan for 2 Karl's Circle as complete.

R. Gray noted that according to the Planning Board Regulations plans cannot be accepted as complete unless it has been received twenty-one days previously. He asked if this plan had been received in that time frame.

L. Komornick confirmed that it had been received in accordance with the Regulations.

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

T. Moore moved, second by R. Gray, to approve the condominium conversion plan for 2 Karl's Circle as complete. There was no discussion on the motion. The vote was 5-0-0 U/A.

The Board had a discussion of Planning Board Regulations and Procedures for the agenda items.

R. Gray expressed concern that the agenda he receives prior to a meeting rarely is the same agenda presented at the Board's meeting. He noted that he wanted to make sure that all deadlines were being adhered to.

L. Komornick noted that some agenda items are added after the agenda is posting. She added that aside from public hearings, the posted agenda only needed to note the date, place and time of meeting. L. Komornick noted with reference to this particular agenda she listed items that would normally be under "other business" to fill out the agenda.

L. Komornick explained that all matters that are posted for public hearing must be received twenty-one days prior to the date of the hearing; the twenty-one days for public hearings is to insure that proper notification to the newspaper and the abutters can be done. She noted that other agenda items do not have a time period to be put on the agenda. L. Komornick added that if the Board wanted there to be a cutoff date for these kinds of agenda items she would enforce whatever they decided.

The Board may look to review and possibly update their policies and procedures at a future meeting.

Item 5: Request by Sean Madden regarding use of the building at 1 Hilldale Avenue, Tax Map 11, Lot 4, and Industrial Zone 1 for a Crossfit Facility.

S. Ranlett read a brief letter from Sean Madden regarding using the building at 1 Hilldale Avenue for a group led strength and conditioning gym.

L. Komornick noted that this type of use may fall into a gray area.

R. Gray offered that he didn't see that a gym use was permitted in the Industrial District, that it was more of a Commercial District use.

T. Moore added that he didn't see how the existing uses list could be stretched to include a gym. He suggested that the Mr. Madden make an application to the Zoning Board of Adjustment (ZBA) for a use variance. T. Moore added that this may be one of those circumstances that the Board may want to send a letter of support for the variance application.

G. Adams suggested this use could fall under "Recreation – Public Use."

R. Gray offered that use was intended to be limited to municipal recreational uses.

G. Adams noted that municipalities did not have to comply with their own zoning so limiting

recreational uses to municipal uses wasn't necessary. He added that all Light Industrial (L1) uses weren't necessarily open to the public.

There was continued discussion regarding the intent of "Recreation – Public Use" and whether or not it was intended to be limited to municipal recreational uses. The majority of the Board members cited that they considered the intent to be municipal recreational uses.

There was continued discussion regarding whether or not the proposed use was considered an allowable use. It was decided the clearest course of action would be to ask the requestor to apply for a variance and for the Planning Board to forward a letter of support to the ZBA.

R. Gray added that all parking and septic calculations should be submitted and verified by the Department of Building Safety.

Item 6: Request by Jason Thibodeau to utilize property located in the commercial buildings located at 2 Red Oak Drive for wholesale ordering of small quantities of some cleaning products and repackaging of them into 2lbs containers.

S. Ranlett read a brief letter from Jason Thibodeau seeking to add an additional function to his existing business property at 2 Red Oak Drive. That function would be ordering and receiving cleaning products in bulk and repackaging them into 2 lbs containers.

There was discussion regarding comparable uses already occurring in the condo units at 2 Red Oak Drive. The Board did not express any concerns with what was proposed by Mr. Thibodeau.

S. Ranlett question why an item of this nature was put on the agenda. He suggested it was something that could be handled in the offices.

L. Komornick offered if there is ever a question about what a business is looking to do she seeks out the input of the Planning Board.

Item 7: Request by Sean Mahoney of Bay State Disposal regarding a "Purchase and Sales Agreement" their company has with Torromeo Industries for the property located at 22 Old Road (current site of Senter Brothers). He has inquired with the Department of Building Safety and Planning Department whether this will be an allowed use based upon a description of this business that he has provided in the enclosed letter.

S. Ranlett read a letter submitted by Sean Mahoney of Bay State Disposal.

S. Ranlett offered that this proposed use was similar to that of Pentucket Disposal. He added that he felt this would be a lesser use that what is currently at this location.

R. Gray noted that the current use is clearly a permitted use in this District.

T. Moore added that this use was also similar to Century Leasing (212 Plaistow Road) owned and operated by Michael Panniello.

S. Ranlett offered that he didn't have any issues with this proposed use with the exception of the hours of operation.

R. Gray noted that whether or not this was a permitted use would be much cleaner if this property were zoned Industrial 2.

There was a discussion of the proposed use, which was storage and leasing of dumpsters and storage containers. It was noted that this would not be a transfer station and it was similar to the Pentucket Disposal site approved for Main Street.

L. Komornick noted that they cannot keep full dumpsters onsite without permitting from NHDES (New Hampshire Department of Environmental Services).

S. Ranlett called for a consensus of the Board that the requestor could come back with a proposal to amend the site plan for their use. It was noted that specific items could not be discussed at this meeting and it was not a public hearing, there was no plan and abutters have not been notified. Items such as any new structures, hours of operation, what can and cannot be stored on the site and the Shoreline Protection Plan will be reviewed once an amended plan is submitted.

Item 8: First Public Hearing on the Proposed 2014 Zoning Amendments.

The Planning Board held a public hearing on the following proposed Zoning Ordinance Amendments:

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)

Discussion:

It was noted that the map still needed to be developed to show the location of the overlay, but the involved parcels were clearly listed.

There was a brief discussion on the proper procedures for reviewing these proposals at this public hearing. The deadline dates for holding public hearings for any amendments to appear on the Warrant were outlined. It was decided that the Board would review all the proposed amendments, allow public comment and then continue all amendments to a second public hearing to be held on January 15, 2014.

There was no public comment on this proposed amendment.

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.]

Discussion:

There was no discussion or public comment on this proposed amendment.

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.]

Discussion:

There was no discussion or public comment on this proposed amendment.

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:

There was no discussion or public comment on this proposed amendment.

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:

G. Adams question if this would occur before State approval of the documents.

T. Moore replied that they would need to be reviewed and approved by the Planning Board.

S. Ranlett added that Board would still have the option to submit any legal documents to their attorney for additional review.

T. Moore responded that the Board always has that option.

S. Ranlett offered that he wasn't going to be reviewing legal documents as he doesn't have the background to know what he's looking at.

L. Komornick informed that all condo documents must be reviewed at the State level and registered with the Attorney General's Office.

R. Gray expressed concern about this requirement if the law changes and State approval is no longer required.

It was noted that if the State Law were to change then the Zoning would change as well.

There was no public comment for this proposed amendment.

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.]

Discussion:

There was no discussion or public comment for this proposed amendment.

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~~ parcel."*

[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~~ parcel.]

Discussion:

There was discussion regarding instances of an in-law apartment or a duplex dwelling unit and how the wording of this ordinance would be interpreted. The words "dwelling unit" would allow there to be home occupations in both dwelling units in these situations, which could potentially increase the number of commercial vehicles allowed as well. It was determined that condexes would not be affected as once a duplex has been converted to a condominium form of ownership each unit is considered to be its own unique parcel. It was further noted that home occupations are only permitted in single or two-family dwellings, not in multi-unit buildings. It was decided that the best way to handle these instances would be to change the words "dwelling units" to "parcel" to

limit the possibility. It was noted that any applicant would always have an option to apply for a variance.

There was no public comment on this proposed amendment.

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

UPDATED: December 17, 2013 ~ SEE §220-57.H.(1)

§ 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.~~

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 what happens to dwellings with in-law apartments are sold, particularly with reference to the requirement that the first tenant must be a relative of the owner. It was discussion what would happen if there was an existing tenant, not related to a new property owner, and looking to remain in the in-law apartment after a change of ownership.

There was discussion that the intent of the ordinance was to allow property owners the ability to provide housing for relatives. The language in paragraph D was reviewed and thought to be unclear regarding tenancy after a property sale. So the noted change was proposed.

The other changes listed are to eliminate any reference to formerly having to apply to the ZBA for a special exception without losing the necessary review requirements for an in-law apartment.

There was no public comment for this proposed amendment.

Proposed Plaistow Zoning Amendment Z-14-9

Are you in favor of a new definition for "Contractor" as follows?

Discussion:

Members “googled” different definitions for the word contractor.

There was discussion as to how small and large contractors would be differentiated.

S. Ranlett offered that more research and discussion needed to be had on this proposal. He added that he didn’t want to rush into putting in a definition that the Board would be stuck with for a year before any changes could be made to it.

G. Silva offered to work on some proposed language for a definition and email it to all Board members.

S. Ranlett requested that any responses to G. Silva’s email be in the “reply all” fashion so that all members will have the benefit of any comments.

R. Gray offered that there needed to be a definition for “contractor” and then it needed to be broken down into “small contractor” and “large contractor.”

T. Moore suggested that the permitted uses tables be reviewed and worked backwards to define contractors as they relate to those business uses.

L. Komornick reminded that there were at least three (3) contractor condo projects that don’t currently have traditional contractors in them now.

S. Ranlett reminded that main reason this even came up was regarding the “Absolute Roofing” site plan when there wasn’t a clear definition of a Contractor’s Yard. That definition has since been approved.

L. Komornick suggested that a better approach might be to tweak the list of permitting business uses to include the kinds of contractors the Board is struggling to define.

It was also suggested that the definition of a business could be changed to read “business/contractor” in Article II.

There was no public comment on this proposed amendment.

Item 9: Updates on Projects Including Little River, Snow’s Brook and Ron Brown

Little River Planned Residential Development (PRD)

L. Komornick noted that all outstanding items for the Little River PRD have been received and recorded at RCRD. She added that the Temporary Certificates of Occupancy can now be issued as permanent.

Falls at Gunstock (Ron Brown)

L. Komornick noted that there was no additional information regarding this development other than what was reported at the previous meeting.

Hillcrest Estates

L. Komornick noted that they have received State Subdivision approval; the documents and mylar for recorded needed to be provided; and they still needed to work out some easement language.

G. Adams asked if the deceleration lane that is part of the Little River PRD would be resurfaced in the spring. It was confirmed that it would be if necessary.

Item 10: Reading of Communications Directed to or From the Board

There were no additional communications before the Board.

Item 11: Report/Update by Tim Moore on RPC (Rockingham Planning Commission) Activities

T. Moore did not have any new RPC items to report at this meeting.

Item 12: Other Business

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

R. Gray noted that the Board of Selectmen approved an additional \$3,000 be added to the Impact Fee Update line of the Planning Board budget. This makes both the Impact Fee Update line item and the MasterPlan line item funded at \$5,000 each in the 2014 budget.

S. Ranlett added that he had a discussion with Town Manager Sean Fitzgerald regarding meeting with Mark Fougere, who has been contracted under the 2013 budget for some of the updating. He noted that Mr. Fougere will be at the January 15, 2014 meeting. S. Ranlett offered that he didn't want to rush these updates and wanted to make sure that everyone is on the same page.

It was noted that once a contract has been signed it is not necessary to encumber the funds and no funds can be encumbered unless there is a signed contract.

S. Ranlett wished the Board and home viewers a Merry Christmas and a Happy New Year.

There were no additional matters before the Board and the meeting was adjourned at 8:32 PM.

Respectfully Submitted as recorded by Dee Voss.

Approved by the Planning Board on _____

Steven Ranlett, Chair