



**Town of Plaistow, NH
Office of the Planning Board
145 Main Street, Plaistow, NH 03865**

**PLANNING BOARD MINUTES
January 15, 2020**

Call to Order: The meeting was called to order at 6:30 PM

ROLL CALL: Tim Moore, *Chair*
James Peck, *Vice Chair*
Laurie Milette
Francine Hart, *Selectman's Rep, excused*
Geoffrey Adams, *Alternate*
Greg Taillon, *Ex-Officio Selectman's Rep, Alternate*

Also present: John Cashell, *Planning Director*

★ ***T. Moore introduced G. Taillon, who is now the Selectman's Ex-Officio Alternate Representative.***

★ ***T. Moore appointed G. Adams as a voting member.***

Agenda Item 2: Minutes of the December 18, 2019 Planning Board Meeting:

★ ***J. Peck moved, second by L. Milette to approve the minutes of the December 18, 2019 Planning Board Meeting. There was no discussion on the motion. The vote was 3-0-2 (L. Milette and G. Taillon abstaining).***

Agenda Item 3: Public Hearings:

Continued from December 5, 2019

3a) PB 19-18: The completeness of an application from Peter & Karen Ray and Henry Corey for a lot line adjustment. The plan proposes to transfer .74A from 57 Sweet Hill Rd, Tax Map 62, Lot 12, owned by Henry G. Corey, to 55 Sweet Hill Rd, Tax Map 62, Lot 13, owned by Peter N. and Karen J. (Peaslee) Ray. Both parcels are located in both the LDR and MDR zoning districts. If the application is found to be complete, the Planning Board may immediately conduct the Public Hearing.

Continued from December 5, 2019

3b) PB 19-19: The completeness of an application from Peter & Karen Ray for a subdivision of land. The plan proposes a two (2) lot subdivision of 55 Sweet Hill Rd, Tax Map 62, Lot 13. Lot 13 is proposed to be 1.59A and have 277.53' of frontage on Sweet Hill Rd. Lot 13-1 is proposed to be 2.66A, with 2.53A of uplands and 424.54' of frontage on Pollard Rd. The property is located in the MDR and LDR Districts. The applicants are the property owners of record. If the application is found to be complete, the Planning Board may immediately conduct the Public Hearing.

Tim Lavelle, James M. Lavelle Associates, was present for the application.

T. Moore offered that, according to the Staff Report, the Board does not have all of the information needed to accept the applications for PB 19-18 and PB 19-19 as complete.

T. Lavelle requested a continuance of the Public Hearing for PB 19-18 and PB 19-19 until February 19, 2020. He stated that the State of New Hampshire Department of Environmental

Services website has been down for over a week which has inhibited his ability to check for the Subdivision Application approval.

T. Moore stated the matters PB 19-18 and PB 19-19 would be continued to Wednesday, February 19, 2020.

3c) Review and Adoption of the 2019 Master Plan prepared by Resilience Planning & Design.

** Note: A copy of the draft 2019 Master Plan is available on the Town's Website as well as in the Planning Office during regular business hours.*

Steve Whitman, Resilience Planning & Design, was present for the discussion.

S. Whitman offered that a draft of the 2019 Master Plan was posted on the Town website back in December 2019. There have not been any new comments received. There are still some punctuation, minor edits, and some implementation actions that still need to be completed.

S. Whitman offered that the Board can choose to adopt the 2019 Master Plan with the understanding that there are still some changes to be made, or wait until all changes are made and then vote to adopt the Master Plan after all changes have been completed.

J. Peck stated that he has some changes to provide to S. Whitman for the Historical Society.

T. Moore suggested that the Board vote to adopt the 2019 Master Plan with conditions.

S. Whitman asked if the Board had any additional comments or questions.

T. Moore asked S. Whitman about the inclusion of an Annual Update form.

S. Whitman offered that he will include a separate sheet within the appendix for an Annual Update sheet.

There was a discussion that there are a lot of references to older documents and that there is an original document inventory included. There needs to be references to older materials. However, the documents themselves don't need to be included in the new Master Plan.

J. Cashell offered that with all of the effort that has been put into the Master Plan, it is a very good read for the residents and the general public. There is a strong implementation section and a great reference document section. If residents want to learn more about the town that you live in, the Master Plan is the best document to look at.

J. Peck offered that it is a shame that more people don't read the Master Plan.

T. Moore noted that there was no one in the audience to offer Public Comment.

★ J. Peck moved, second by L. Milette to adopt the 2019 Master Plan with the understanding that there are still some minor changes to be made. There was no discussion on the motion. The vote was 5-0-0 U/A.

Agenda Item 4: Old Business:

There was no Old Business presented.

Agenda Item 5: New Business:

2019-2020 Proposed Zoning Amendments: Voter's Notes:

The Board was provided with a copy of the "2019-2020 Proposed Zoning Amendments: Voter's Notes" handout.

T. Moore offered that the "Voter's Notes" are a separate document that are provided to the voters within the "Voter's Guide" at the polls.

T. Moore stated that he would provide a review of each of the Voter's Notes and asked the Board to comment on whether they are acceptable as written, or if edits need to be made.

T. Moore reviewed the following "2019-2020 Voter's Notes":

Proposed Plaistow Zoning Amendment Z-20-1: Plaistow Zoning Ordinance, Article II, Definitions:

Voter's Note: This is a housekeeping item, while it has always been assumed that "rental" is a retail function, this change will leave nothing open to interpretation.

The Board made no changes to the Proposed Plaistow Zoning Amendment Z-20-1: Voter's Note.

Proposed Plaistow Zoning Amendment Z-20-2: Plaistow Zoning Ordinance, Article II, Definitions:

Voter's Note: To provide a clear definition of a trade business (electrician, plumber, etc.) that typically does not require any exterior storage, and distinguish it from a contractor business (landscaping, construction) which is a more intense use commonly known to require exterior storage.

The Board made no changes to the Proposed Plaistow Zoning Amendment Z-20-2: Voter's Note.

Proposed Plaistow Zoning Amendment Z-20-3: Plaistow Zoning Ordinance, Article II, Definitions:

Voter's Note: To create a clearer, more user-friendly definition of a change of use and define when it is appropriate for the Planning Board to review any proposed changes in a commercial/industrial use.

The Board made no changes to the Proposed Plaistow Zoning Amendment Z-20-3: Voter's Note.

Proposed Plaistow Zoning Amendment Z-20-4: Plaistow Zoning Ordinance, Article III, General Provisions:

Voter's Note: To allow the property owner of a new lot, that is created by a subdivision, having frontage on more than one roadway, to choose their driveway access point when there is more than one viable location. All other requirements for the placement of a new driveway (i.e. setbacks) are applicable.

Currently the driveway can only be located in the frontage area that allows the lot to be subdivided by meeting minimum frontage requirements, even if another access point

would make more sense from a traffic safety or wetlands crossing standpoint. The property owner would be required to apply to the Zoning Board of Adjustment for variance relief to use any other frontage area for their driveway. This adds unnecessary expense and delay to an otherwise routine and compliant subdivision project.

The Planning Board would still review the location of the proposed driveway as part of the subdivision review and approval process to ensure all other criteria meet the regulation and ordinance requirements.

The Board made no changes to the Proposed Plaistow Zoning Amendment Z-20-4: Voter's Note.

Proposed Plaistow Zoning Amendment Z-20-5: Plaistow Zoning Ordinance, Article III – General Provisions and Article VI - Planned Residential Development:

Voter's Note: Housekeeping - To relocate the requirement for a PRD roadway to be public from the PRD section to the general requirements section to have all public roadway criteria in a single location within the ordinances. Doing so lessens the chance that it will be overlooked.

Discussion:

J. Peck asked if the voters would know what PRD meant.

T. Moore offered that both the "Voter's Note" and the warrant itself are available within the "Voter's Guide" that is provided for the voter's reference.

The Board made no changes to the Proposed Plaistow Zoning Amendment Z-20-5: Voter's Note.

Proposed Plaistow Zoning Amendment Z-20-6: Plaistow Zoning Ordinance, Article V, Establishment of Districts and District Regulations:

Voter's Note: To remove motel as a permitted use in any zoning district in town. Anyone who would seek to have a motel would still have the option to apply to the Zoning Board of Adjustment for a variance if they can meet that criteria.

The Board made no changes to the Proposed Plaistow Zoning Amendment Z-20-6: Voter's Note.

Proposed Plaistow Zoning Amendment Z-20-7: Plaistow Zoning Ordinance, Article V, Establishment of Districts and District Regulations:

Voter's Note: Article Z-20-2 defines what is meant by a "Trade Business" this proposed amendment defines where such a business can operate. If passed, Trade Businesses, as defined in Article II, would only be allowed in the Commercial I, Industrial and ICR districts. For the location of these districts please refer to the Zoning Map found on the Town's website www.plaistow.com

These businesses would still be allowed in other zoning districts on a small scale as a home occupation, provided the criteria in Article X (Home Occupation) can be met.

The Board made no changes to the Proposed Plaistow Zoning Amendment Z-20-7: Voter's Note.

Proposed Plaistow Zoning Amendment Z-20-8: Plaistow Zoning Ordinance, Article V, Establishment of Districts and District Regulations:

Voter's Note: To allow Personal Services Businesses, which are those licensed businesses such as hair/nail salons, cosmetologists/estheticians, barbers, massage/physical therapist, and the like, as a permitted use in the Commercial II and Village Center Districts - For the location of these districts please refer to the Zoning Map found on the Town's website www.plaistow.com.

The Board made no changes to the Proposed Plaistow Zoning Amendment Z-20-8: Voter's Note.

Proposed Plaistow Zoning Amendment Z-20-9: Plaistow Zoning Ordinance, Article V, Establishment of Districts and District Regulations:

Voter's Note: The current ordinance requires that any structure the houses farm animals be 100' from all property lines. This means that anyone who might want to have a farm animal (including, but not limited to goats, sheep, cows and horses) to have property that is at least 200' plus the dimensions of the structure wide, in all directions.

There is an associated ordinance in each district that requires the corral for these animals to be at least 50' from all property lines. This proposed amendment doesn't affect that requirement.

Since the corral/fencing defines how close any farm animal might get to an abutting property, the location of the housing structure is irrelevant to the activities of the farm animal, provided that both the structure and the animal are within the corral.

The setback restriction is maintained at 100' if there is no corral to encourage property owners to have a corral.

Discussion:

There was a discussion that "the" in the first sentence of the first paragraph needs to be changed to "that".

Voter's Note after edits:

Voter's Note: The current ordinance requires that any structure that houses farm animals be 100' from all property lines. This means that anyone who might want to have a farm animal (including, but not limited to goats, sheep, cows and horses) to have property that is at least 200' plus the dimensions of the structure wide, in all directions.

There is an associated ordinance in each district that requires the corral for these animals to be at least 50' from all property lines. This proposed amendment doesn't affect that requirement.

Since the corral/fencing defines how close any farm animal might get to an abutting property, the location of the housing structure is irrelevant to the activities of the farm animal, provided that both the structure and the animal are within the corral.

The setback restriction is maintained at 100' if there is no corral to encourage property owners to have a corral.

Proposed Plaistow Zoning Amendment Z-20-10: Plaistow Zoning Ordinance, Article VI. Planned Residential Development:

Voter's Note: There are multiple changes proposed to the Planning Residential Development (PRD) ordinance. Some are housekeeping in nature, such as changing the term "dwellings" to "dwelling units." A Duplex could be seen as a single "dwelling", but it has two (2) "dwelling units." By using the term "dwelling units" it makes clear how the total number of allowed "units" is calculated for density purposes.

The overall intent of the PRD Ordinance has always been to provide a property owner the ability to develop a residentially-zoned parcel to the allowed maximum density while requiring the preservation and protection of open space. The other changes that are proposed with this amendment are to encourage a PRD type of development over a standard subdivision layout. Most standard subdivision layouts result in more roadway and there is no requirement for preserved open space. By reducing some of the PRD requirements, such as the ten (10) acre parcel size minimum and 200' of frontage requirement, it is hoped that developers will choose to go with the PRD form of development. Nothing in the proposed changes would allow for a greater density in a PRD than what would be allowed in a standard subdivision.

There are also changes to help better define the open space requirements, locations of buffers, and better defines how close structures can be to those buffers.

Yet another change links the community well radius to New Hampshire Department of Environmental Services standards instead of an arbitrary, one-size-fits-all number.

The current full text of the current Planning Residential Development Ordinance (Article VI) is available on the Town's Website www.plaistow.com

Discussion:

There was a discussion that all of the references to "Planning Residential Development" need to be changed to "Planned Residential Development".

Voter's Note after edits:

Voter's Note: There are multiple changes proposed to the Planned Residential Development (PRD) ordinance. Some are housekeeping in nature, such as changing the term "dwellings" to "dwelling units." A Duplex could be seen as a single "dwelling", but it has two (2) "dwelling units." By using the term "dwelling units" it makes clear how the total number of allowed "units" is calculated for density purposes.

The overall intent of the PRD Ordinance has always been to provide a property owner the ability to develop a residentially-zoned parcel to the allowed maximum density while requiring the preservation and protection of open space. The other changes that are

proposed with this amendment are to encourage a PRD type of development over a standard subdivision layout. Most standard subdivision layouts result in more roadway and there is no requirement for preserved open space. By reducing some of the PRD requirements, such as the ten (10) acre parcel size minimum and 200' of frontage requirement, it is hoped that developers will choose to go with the PRD form of development. Nothing in the proposed changes would allow for a greater density in a PRD than what would be allowed in a standard subdivision.

There are also changes to help better define the open space requirements, locations of buffers, and better defines how close structures can be to those buffers.

Yet another change links the community well radius to New Hampshire Department of Environmental Services standards instead of an arbitrary, one-size-fits-all number.

The current full text of the current Planned Residential Development Ordinance (Article VI) is available on the Town's Website www.plaistow.com.

Proposed Plaistow Zoning Amendment Z-20-11: Plaistow Zoning Ordinance, Article VII. Affordable Elderly Housing:

Voter's Note: This current Affordable Elderly Housing District Ordinance was approved by the voters in 2018. As developers have met with town staff to discuss the possibility of developing such a project, it was noted that there were some minor areas that were too open to interpretation. There were also changes in some federal government program terminology that was inconsistent with this ordinance for example, the term "Elderly" has been replaced by "Older Person."

The changes proposed in this amendment are to better define the requirements of the ordinance, and relate the ordinance more to federal programs that would financially support such a development, so that when their requirements changes, our ordinance would automatically change and never be in conflict. The full text of the current Affordable Elderly Housing District Ordinance (Article VII) is available on the Town's Website www.plaistow.com.

The Board made no changes to the Proposed Plaistow Zoning Amendment Z-20-11: Voter's Note.

Proposed Plaistow Zoning Amendment Z-20-12: Plaistow Zoning Ordinance, Article X, Home Occupation:

Voter's Note: To make the number of children allowed in an in-home daycare or an in-home teaching situation be the same number, six (6).

This proposed amendment was suggested by the Zoning Board of Adjustment who have jurisdiction over the granting of special exceptions for home occupations. The ZBA did not take a position on whether both should be capped at four (4) or at six (6), but expressed that these permitted uses are similar in character and there didn't seem to be a reason why they should be different in number.

The Board made no changes to the Proposed Plaistow Zoning Amendment Z-20-12: Voter's Note.

Proposed Plaistow Zoning Amendment Z-20-13: Plaistow Zoning Ordinance, Article XIV – Impact Fees:

Voter's Note: Housekeeping – with the recent update to the school district and recreational facility impact fee methodology, as well as recent NH Legislative changes in the allowances for accessory dwelling units, these changes are necessary to make everything agree in terminology and how accessory dwelling units are assessed for impact fees.

The Board made no changes to the Proposed Plaistow Zoning Amendment Z-20-13: Voter's Note.

Proposed Plaistow Zoning Amendment Z-20-14: Plaistow Zoning Ordinance, Article XX. Adjustments:

Voter's Note: It is said that variances and special exceptions go with the land in perpetuity. That means that a property owner could have received a variance in 1960, never implemented the purpose of the variance, but would still be able to rely on that variance no matter how many other associated zoning changes may have occurred, or how many times that property, or any impacted abutting property may have changed hands, in the interim.

In 2013 the State passed Legislation that put a two-year expiration date on any variance or special exception approved, but not exercised (implemented), from the effective date of the legislative change. The State left it to each municipality to decide whether or not there would also be an expiration date for variances and special exceptions approved prior to the legislative change.

This proposed amendment will place the same two-year expiration on any previously approved variance or special exception that was granted prior to the 2013 legislative change, but not exercised by March 30, 2022. This proposed change will not prohibit any property owner whose variance or special exception expires from re-applying for a variance after March 30, 2022.

The Board made no changes to the Proposed Plaistow Zoning Amendment Z-20-14: Voter's Note.

Proposed Plaistow Zoning Amendment Z-20-15: To re-zone parcels as shown on the official Tax Map on Tax Map 24, Lot 42 (1 Main St); Lot 41 (3 Main St); Lot 40 (5 Main St) and Tax Map 37, Lot 65 (7A Main St) from Commercial 1 designation to Commercial 2 designation:

Voter's Note: To re-zone the designated four (4) parcels located at the south end of Main Street from a Commercial I designation to a Commercial II designation. To see what CI

and CII district requirements are please refer to Article V of the Plaistow Zoning Ordinances on the Town's website www.plaistow.com.

Discussion:

There was a discussion as to whether the definitions of CI and CII should be added into the Voter's Note to provide more clarification for the voters.

It was discussed that CII is more restrictive than CI.

T. Moore offered that Route 125 is an example of a CI District, while Main Street is an example of a CII District.

The Board made no changes to the Proposed Plaistow Zoning Amendment Z-20-15: Voter's Note.

★ J. Peck moved, second by L. Milette to accept the "Voter's Notes", as amended, and for them to be added to the "Voter's Guide". There was no discussion on the motion. The vote was 5-0-0 U/A.

House Bill 1439 - As Introduced:

T. Moore offered that there was previously no definition in RSA 676:4, I(d)(1) to notify the public when a Zoning Determination is made. September 2019 was the deadline to submit legislative change requests.

T. Moore offered a brief review of the Sponsors for each district. He explained that he sent each sponsor an e-mail explaining the problem that needed to be addressed.

T. Moore offered a review of House Bill 1439 and the Testimony that was presented. He said that a hearing was held and some comments were received back.

T. Moore offered that some towns do not have a Zoning Official.

T. Moore provided a review of the Planning and Zoning Board's procedures and timelines.

T. Moore offered that he will meet with New Hampshire Municipal Association (NHMA) Executive Director, Margaret Byrnes. He offered a review of the process that the House Bill 1439 will go through if it is approved by NHMA, with the bill then moving through the New Hampshire House of Representatives, Senate, and Governor to be adopted.

J. Peck asked for a walk through of the process that is initiated when Mike Dorman, Chief Building Official, makes a Zoning Determination.

T. Moore offered a brief review of the process that is initiated when a Zoning Determination is made.

There was a brief discussion on when the clock starts for the administrative appeal period. It was discussed that the clock would start for an administrative appeal period when the public is notified of the Zoning Determination.

There was a discussion as to whether twenty (20) days or thirty (30) days is a reasonable amount of time to allow for an appeal period.

J. Cashell offered a review of a current case that is going through an administrative appeal. He offered that a Zoning Determination is not something formal that is subject to litigation. He

offered that an abutter cannot appeal a Zoning Determination made by an official. The appeal can only be made to the Zoning Board of Adjustments (ZBA). A permit, such as a Building Permit, would allow for an appeal opportunity and litigation, but not a Zoning Determination.

J. Peck asked what the remedy would be for a Zoning Determination that is determined to be incorrect.

J. Cashell offered that the permit granting authority would review thoroughly all requirements needed to obtain a permit. A Zoning Determination could lead to an administrative appeal with the ZBA, but no litigation.

There was a brief discussion regarding the percentage of House Bills that were passed in 2019. It was discussed that approximately the same percentage is expected to be passed in 2020.

Agenda Item 6: Communications, Updates, FYIs, and Other Business:

G. Adams left the meeting at 7:42pm.

ProQuip:

T. Moore offered that it is his understanding that the Judge and two (2) attorneys want to do a site walk of the property. He stated that it is believed that the site walk will take place in the Spring.

Capital Improvements Program (CIP):

L. Milette initiated a discussion regarding the CIP.

T. Moore offered that CIP will be wrapped up this week and a copy will be provided to the Board.

L. Milette asked if the Board has to be okay with the entire CIP document to adopt it. She stated that Recreation was left off the warrant and she feels that it needs to be addressed.

J. Cashell offered that the Board votes to adopt the CIP, but it is ultimately approved by the Board of Selectmen (BOS).

G. Taillon offered an explanation as to the reasoning for Recreation being taken off the warrant. It may be necessary to survey the Town's residents to see what the residents actually want.

It was discussed that the CIP is more about a determining a wish list from the department heads than the actual dollar figures involved. The projects will likely be ranked from most important to the least important.

J. Peck asked what value the Planning Board has with regard to the CIP.

T. Moore offered that without a Master Plan the Town cannot have a CIP. Ranking can be based upon Master Plan priorities.

G. Taillon offered his opinion that the BOS should have more department heads come and discuss the needs of each department. There needs to be some research done to determine exactly what residents want.

J. Peck offered that he still is not understanding the value that the Planning Board has with regard to the CIP.

J. Cashell offered that the check and balance is based upon what the voters approve on the warrant. The highest priority projects get addressed the first year, next important get addressed

the second year, and so forth. The CIP is based off of a six (6) year period. Improving the community structurally requires the public to participate in the process.

T. Moore offered that up until a couple of years ago the CIP was presented to the BOS. It is kind of disappointing that the CIP is no longer presented because now some people who have not read the CIP are making decisions.

It was discussed that each department needs to have a long-term plan.

T. Moore offered that the Planning Board will vote to adopt the CIP in February 2020.

J. Peck offered that Recreation is still showing on the CIP, but has been removed from the warrant. There seems to be some disconnect there. There seems to be a disconnect with the Library as well.

T. Moore offered that there wasn't a recommendation for an additional deposit for Recreation.

J. Cashell offered that the CIP is an advisory document only, that is provided to the BOS. Certain items get moved to the warrant and voted on by the residents. Resident will typically support good things but not things that will significantly increase taxes.

T. Moore offered that in the past ten (10) years, most of what gets proposed gets approved. This year a jump in assessments and tax bills may affect some decisions.

G. Taillon offered that he appreciates working with the Board and is looking forward to learning about CIP and other processes and items of importance.

T. Moore asked the Board if there was any additional business to be presented or any other questions or comments.

There was no additional business before the Board and the meeting was adjourned at 8:10pm.

**Respectfully Submitted,
Samantha D. Cote
Recording Secretary**