

**TOWN OF WOLFEBORO
PLANNING BOARD
December 15, 2020
Minutes**

Members Present: Kathy Barnard, Chairperson, Brad Harriman (remote with no one else present in the room), John Thurston, Mike Hodder, Peter Goodwin (remote with no one else present in the room), Susan Repplier, Vaune Dugan (remote with no one else present in the room), Julie Jacobs.

Members Absent: None

Staff Present: Tavis Austin, Director of Planning and Development, Mary Jane Shelton, Recording Assistant

I. Introduction of Board Members

Chairman Barnard introduced the members of the Planning Board and Staff and called the meeting to order at 7:00 PM.

II. Scheduled Appointments / Public Hearings / Public Forum

2021 Proposed Zoning Changes: Chairman Barnard explained that these proposed changes were to have been discussed at the 12/1/20 Planning Board meeting. However, due to technical difficulties and the uncertainty of the public's ability to hear and participate in the proceedings, these amendments were continued to this 12/15/20 meeting.

1. Amendment to Shorefront Residential District (§175-67)

Kathy Barnard reviewed the information on this amendment previously discussed at the 12/1/20 Planning Board meeting. The purpose of the amendments is to make the Shorefront Residential District regulations clearer and easier to interpret for both public and staff. The recommended changes were put forth by the previous Planning Director. The reason for the amendments to encourage more people to consider water quality when doing construction in the shorefront residential district, and specifically addressing stormwater management issues.

One change had been previously suggested by Roger Murray. He felt the wording was too loose in 175-67 (A)1c. The Board discussed this at the 12/1/20 meeting and decided to stay with the current proposed wording.

Vaune Dugan, at the 12/1/20 meeting, had expressed concern regarding non-conforming structures, specifically the ability to expand by 25%. Kathy Barnard clarified that specific provision in the zoning ordinance is not affected by the proposed amendments.

Kathy Barnard opened the Public Hearing.

Tavis Austin brought to the Board's attention another change to Section 175-67 (A)1c that was discussed at the 12/1/20 meeting which was modifying the wording "Certificate of Occupancy" to "Certificate of Compliance/Occupancy". The rationale being that there are certain instances - i.e., additional of a deck, etc. -- where a certificate of occupancy does not apply but a certificate of compliance would. Tavis added that this would not be a substantive change, but rather a clarification.

Kathy Barnard inquired if Tavis Austin was comfortable with implementing the changes as proposed. Tavis confirmed that he was in agreement with the proposed amendments.

Kathy Barnard closed the Public Hearing.

Vaune Dugan had a question regarding the wording of §175-67 D(2) Lot Redevelopment. Her specific concern was with the word "and" in the last sentence "...legally non-conforming structures AND enhancing stormwater management." Mike Hodder interpreted the sentence as being a listing of methods for achieving greater conformity. Tavis Austin suggested adding a comma after the word "structures" to clarify the intended meaning.

Mike Hodder made a motion, which was seconded by John Thurston, to move this Amendment to the Shorefront Residential District, with the two minor changes indicated, on to the Town Warrant in 2021. Roll call vote: Brad Harriman - yes; Peter Goodwin - yes; Vaune Dugan - no; Susan Repplier - yes; John Thurston - yes; Mike Hodder - yes; Kathy Barnard - yes. Motion passes by a 6-1 vote.

2. Amendment to Design Guidelines/Standards (§175-106 & 107; §175-116 & 117; §175-121.4; and §175-155)

Mike Hodder explained that the amendment brings the zoning ordinances up to date by removing existing references to "voluntary design review guidelines" and replacing them with references to "Architectural Design Standards". This represents a change in terminology only. The background is as follows: on 2/18/20 the Planning Board held a public hearing to discuss repealing the existing design review guidelines in the Town's site plan review regulations §173-19(B) and replacing them with the architectural design standards the Planning Board had crafted through a subcommittee formed for that purpose. Following that meeting the Planning Board adopted the new architectural design standards as §173-19(B) of the Town's site plan review regulations. That adoption required changes in terminology throughout portions of the Town's zoning ordinances, which are as follows: §175-155(B); §175-106 Note 2; §175-107 Note 2; §175-116 Note 2; §175-117 Note 2; and §175-121.4 (F).

Kathy Barnard opened the Public Hearing. There being no comments, the Public Hearing was closed.

Mike Hodder made a motion, which was seconded by Susan Repplier, to move this amendment to the Town Warrant for 2021. Roll call vote: Brad Harriman - yes; Peter Goodwin - yes; Vaune Dugan - yes; Susan Repplier - yes; Mike Hodder - yes; John Thurston - yes; Kathy Barnard - yes. Motion passed 7-0.

3. Amendment to Non-Conforming Structures (§175-143)

Mike Hodder explained that this amendment entails a minor change to existing language in the ordinance which is confusing and repetitive. It inserts the word “lawfully” between the words “existing” and “nonconforming footprint” and removes the text which now reads “of the existing, lawful portion” from the ordinance. The effect is to underline that the 25% maximum allowed expansion and extension of a nonconforming structure is to be based on its lawful footprint. The change updates the revision of §175-43 which was approved by the voters in March, 2009 and the change in terminology affects ordinance §175-43 A(4) and shall read as follows:

§175-43 Nonconforming uses

A. Expansion and extension

- (4) The basis for determining the maximum and cumulative expansion limitations (25%) shall be the existing lawfully nonconforming footprint (measured to the overhang extent) of the nonconforming structure, excluding appurtenant features such as exterior stairs and non-habitable areas such as open decks.

Kathy Barnard opened the Public Hearing. There being no comments, the Public Hearing was closed.

Mike Hodder made a motion, and seconded by John Thurston, to move this amendment to the Town Warrant for 2021. Roll call vote: Brad Harriman - yes; Peter Goodwin - yes; Vaune Dugan - yes; Mike Hodder - yes; John Thurston - yes; Susan Repplier - yes; Kathy Barnard - yes. Motion passed 7-0.

4. Amendment to Habitable Space (§175-175)

Kathy Barnard explained that this amendment was proposed by the former Planner, Matt Sullivan. Proposed language is:

Habitable Space: A space in a building suitable for living, sleeping, eating or cooking. Closets, halls, storage or utility spaces and similar areas are not considered habitable spaces. Half baths located on the ground floor only in an accessory structure shall not be considered habitable space. Hallways, breezeways (open and enclosed), tunnels, and the like, shall not be considered habitable for the purposes of connecting two or more habitable space areas.

Kathy Barnard further explained that the new Code Officer, after reviewing the proposed language, felt it was not necessary. That it was consistent with the building code. Tavis Austin clarified that baths are not considered habitable space by building code. He stated that he concurred with the new Code Enforcement Officer’s recommendation that leaving out the language related to half baths on the ground floor, the ordinance is more consistent and enforceable by building code. In summary, Tavis Austin recommended not including the following sentence: “Half baths located on the ground floor only in an accessory structure shall not be considered habitable space.”

Kathy Barnard explained that the purpose was to allow half baths in accessory structures - i.e., a half bath in a garage. John Thurston gave further history, explaining that the concern was that individuals would convert accessory structures into rental units, and the like.

Proposal is to not move ahead with the proposed language change for habitable space. Instead the new Code Enforcement Officer suggested adding language to the definition of accessory building or structure. The suggested language is as follows: an accessory structure shall be limited to a single half bath located on the ground floor. That is what has been allowed in the past.

In summary, Kathy Barnard explained that it has been recommended that proposed amendment to change the definition of habitable space be withdrawn and, alternatively, new language be added to the definition of an accessory dwelling.

Kathy Barnard made a motion, which was seconded by Mike Hodder, to withdraw the proposed amendment changing the definition of habitable space and that the subject be added as a priority to the Board's work plan for 2021. Roll call vote: Peter Goodwin - yes; Brad Harriman - yes; Vaune Dugan - yes; Susan Repplier - yes; Mike Hodder - yes; John Thurston - yes; Kathy Barnard - yes. Motion passed by a vote of 7-0 in favor.

5. Off-Street Parking and Loading (§175-128, §175-130 thru 139)

Mike Hodder reviewed the sections and content of the above referenced Zoning Regulations to which changes, are proposed, as well as identifying sections which are to be moved to Site Plan Regulations, sections which will not be changed, and the resultant renumbering of the remaining sections. A handout was made available to attendees as well as the general public showing the entire content of Article XXII, Off-Street Parking and Loading Requirements, and outline the proposed changes.

Kathy Barnard opened the Public Hearing. Kathy Barnard also commented that the Town counsel has reviewed and approved the subject parking ordinance as presented. Mike Hodder gave historical background on the reason for the proposed changes and the process of review and approval up to this point. He further explained the flexibility and advantages that will be provided through the proposed changes to the ordinance. The proposed ordinance amendment will allow creative solutions to parking management plans that don't currently exist and also include the application to two districts not currently included in the ordinance.

Kathy Barnard closed the Public Hearing.

Mike Hodder made a motion, which was seconded by John Thurston, to move this amendment to the Town Warrant for 2021. Roll call vote: Brad Harriman - yes; Peter Goodwin - yes; Vaune Dugan - yes; Susan Repplier - yes; John Thurston - yes; Mike Hodder - yes; Kathy Barnard - yes. Motion passes by a vote of 7-0 in favor.

6. Accessory Building or Structure Amendment

Kathy Barnard informed the Board that this item was advertised separately and has now been legally noticed as of tonight's meeting. The purpose is to address the concern that accessory buildings or structures be limited to a half bath on the first floor. This amendment has been reviewed and endorsed by the new Code officer. The amendment simply involves adding the following wording to the definition of an accessory building or structure: "Accessory building or structures shall be limited to a single half bath located on the ground floor".

Kathy Barnard opened the Public Hearing. There being no questions and/or comments, the Public Hearing was closed.

Peter Goodwin made a motion, which was seconded by Mike Hodder, to move the Accessory Building Structure amendment to the Town Warrant for 2021. Roll call vote: Brad Harriman - yes; Peter Goodwin - yes; Vaune Dugan - yes; Susan Repplier - yes; Mike Hodder - yes; John Thurston - yes; Kathy Barnard - yes. Motion passes by a vote of 7-0 in favor.

III. Public Comment

There was no input from the public.

IV. Other Business

Drive-Thru Restaurants

Kathy Barnard reported she had received another email from Paul Zimmerman following up on his 11/17/20 email. Mike Hodder noted that Mr. Zimmerman's email requested the Board place a warrant article, supported by the Planning Board, on the ballot for the 2021 Town Warrant asking voters to support drive thru restaurants. Kathy Barnard reminded the Board of their decision to host a public meeting for input regarding this issue and this decision had been made prior to Mr. Zimmerman's email. Mike Hodder stated the Board is currently on record as having concerns about drive thru restaurants. He recommended the Board place it on the 2021 work plan and, specifically, perform a study of all of the related issues including soliciting input from affected stakeholders prior to the implementing the Board's original plan of hosting a public forum. It was also noted that the deadline for the 2021 warrant has passed and there is no indication that a warrant regarding drive thru restaurants was submitted.

Vaune Dugan commented on the number of current restaurants that are offering curb side service to survive during the pandemic and that attention should be directed to supporting them. John Thurston and Mike Hodder both advocated the Board's support of all viable business options, especially those supported by the Town residents.

Mike Hodder offered to perform a study prior to a public forum so that the Board could effectively evaluate any drive thru presentations that are brought forth. Susan Repplier offered her assistance with the research on this issue.

V. Minutes:

November 17, 2020 Planning Board Meeting:

Mike Hodder referenced the bottom of page 6, top of page 7, regarding proposed conversations between the Planner and EDC on drive thru restaurants. Tavis Austin responded that he respected the Board's decision to hold off on this matter and has had no conversations with EDC regarding such.

John Thurston made a motion, which was seconded by Mike Hodder, to accept the Planning Board minutes for the November 17, 2020 meeting as submitted. Roll call vote: Mike Hodder - yes; John Thurston - yes; Peter Goodwin - yes; Brad Harriman - yes; Vaune Dugan - yes; Susan Repplier - yes; Kathy Barnard - yes; Motion was approved by a vote of 7-0 in favor.

December 1, 2020 Planning Board Meeting:

Mike Hodder made a motion, which was seconded by Kathy Barnard, to accept the Planning Board minutes for the December 1, 2020 meeting as submitted. Roll call vote: Peter Goodwin - yes; Brad Harriman - yes; Vaune Dugan - yes; Susan Repplier - yes; Mike Hodder - yes; John Thurston - yes; Kathy Barnard - yes. Motion was approved by a vote of 7-0 in favor.

VI. Information Items:

Tavis Austin reported that he had no updates for the Board at this time.

Kathy Barnard stated that there were no public hearings scheduled for January 5, 2021, and that there would be a focused discussion on impact fees at that meeting and the 2021 work plan. The January 19, 2021 meeting would address implementation of the Master Plan.

Kathy Barnard advised the Board she would be speaking with the Planner about an amendment to the Natural Resources chapter addressing the reference to the heights of hills and mountains in Wolfeboro. Peter Goodwin gave background information on the reason for this amendment.

VII. Adjournment:

Mike Hodder made a motion, which was seconded by John Thurston, to adjourn the meeting. Roll call vote: Brad Harriman - yes; Peter Goodwin - yes; Vaune Dugan - yes; Susan Repplier - yes; Mike Hodder - yes; John Thurston - yes; Kathy Barnard - yes. Motion was approved by a vote of 7-0 in favor.

Meeting was adjourned at 8:25 PM.

Respectfully submitted,
Mary Jane Shelton
Recording Assistant

