

**TOWN OF WOLFEBORO  
PLANNING BOARD  
December 20, 2016  
MINUTES**

**Members Present:** Kathy Barnard, Chairman, Stacie Jo Pope, Vice-Chairman, Mike Hodder, John Thurston, Vaune Dugan, Paul O'Brien, Members.

**Members Absent:** Brad Harriman, Selectmen's Representative, Dave Alessandroni, Alternate.

**Staff Present:** Matt Sullivan, Director of Planning and Development, Lee Ann Keathley, Secretary.

*Chairman Barnard opened the meeting at 7:00 PM at the Wolfeboro Town Hall Great Hall.*

**I. Public Hearings**

**Petition Warrant Article; Amend Chapter 175, Part I, Article XXVII to remove the absolute restriction on drive-through restaurants and permitting their construction and operation on lots consisting of at least one (1) acre, changing the definition of "Restaurant, Carryout"**

Matt Sullivan stated there are implications of the proposed language of the Petition Warrant Article; noting the petition recommends the addition of "Restaurant, Carryout" to the Commercial District C1 Central Business District as a permitted use. He stated "Restaurant, Carryout" is currently listed as a permitted use in the Bay Street Limited Business and Wolfeboro Falls Limited Business Districts and as a Special Exception use in the Center Street/Route 28 Mixed-Use Business District. He stated that drive through locations would therefore be permitted in these three additional areas, subject to dimensional controls and other zoning review.

Phillip Marbury, The Law Offices of Marbury and Marbury, stated he represents Paul Zimmerman. He stated the amendment has been crafted to only allow for lots of one acre therefore, extra congestion and traffic issues do not exist due to the size of the lot. He stated the amendment is a positive change for the Town.

Kathy Barnard stated Mike Hodder analyzed the impact to existing properties; noting there are 12 properties affected within the district and four properties that would be suitable for the change. She stated the language of the article cannot be changed and will be placed on the Town Warrant as written.

*Chairman Barnard opened the public hearing.*

Roger Murray III stated he is representing Lake Wentworth Association and is speaking in opposition to the Petition Warrant Article. He expressed concern regarding the impact of the use; noting the proposal negatively affects properties and the gateway to the Town. He requested the Board not to recommend the warrant article.

Maggie Stier stated voters have previously voted against drive thru establishments; noting such would irrevocably change the character of Wolfeboro. She requested the Board not to endorse the proposal.

Suzanne Ryan stated she opposes the Petition Warrant Article. She stated the EDC is working hard to maintain established businesses and sees the proposal as taking away from the local establishments and diminish the aesthetics.

Steve Johnson stated he is in favor of the proposal. He stated the existing rules and regulations would protect abuse of those rules and regulations. He stated the Town can't be a closed community and be afraid to step out of the box.

Andrea Dudley stated she supports Roger Murray and Maggie Stier's comments.

Audrey Cline stated she opposes the proposal; noting such flies in the face of what Wolfeboro is trying to achieve as far as being a walkable community. She stated there needs to be more consideration.

Kathy Barnard stated the Planning Board has to consider the Master Plan when reviewing changes to the ordinance. She stated the Petition Warrant Article excludes parking requirements. She noted the Board reviewed the ordinance at the request of Paul Zimmerman in 2014 and stated the Board voted to prohibit drive thru establishments due to public safety associated with stacking requirements. She stated that existing businesses are concerned for Downtown core leakage.

Vaune Dugan stated she is a member of the Pathways Committee; noting the Committee is always trying to accommodate for pedestrians, bicyclists and handicap accessibility. She expressed concern for additional traffic and safety issues associated with drive thru establishments.

Mike Hodder stated the Petition Warrant Article should be for the benefit of the entire Town. He stated only 12 lots are available that meet the one acre requirement; of those lots only four lots qualify and three of the four lots are owned by the same individual. He stated the Petition Warrant Article has a purpose which is a benefit to the petitioner and not for the Town. Referencing the amendment to a definition, as noted in the second part of the article, he questioned whether the petitioner was aware of the implications of the change by allowing establishments in three other districts. He stated he cannot recommend the article.

Stacie Jo Pope agreed with Mr. Hodder and stated she is not in favor of the article.

Paul O'Brien asked Mr. Murray what the negative effects of the article would be.

Roger Murray III stated the article poses a negative impact to the gateway of the Town in terms of appearance, generates high sewage and potential impact to Lake Wentworth, wetlands and Downtown.

Kathy Barnard stated the Board has to consider impact to the entire Town; noting the proposal only focuses on one zoning district however, impacts other districts which have not been reviewed.

*There being no further questions or comments, Chairman Barnard closed the public hearing.*

**It was moved by Mike Hodder and seconded by Paul O'Brien to not recommend Petition Warrant Article; Amend Chapter 175, Part I, Article XXVII to remove the absolute restriction on drive-through restaurants and permitting their construction and operation on lots consisting of at least one (1) acre, changing the definition of "Restaurant, Carryout". Kathy Barnard, Stacie Jo Pope, Paul O'Brien, Mike Hodder, Vaune Dugan voted in favor. John Thurston abstained. The motion passed.**

**Accessory Dwelling Units; to permit Accessory Dwelling Units, by Conditional Use Permit, in all zoning districts that permit single family residences and in accordance with SB 146.**

Kathy Barnard stated the Board is required to adopt provisions of SB 146 (674:72) and allow for Accessory Dwelling Units (ADU); noting such would allow ADU's in all districts that permit single family dwellings units. She stated ADU's can be permitted by right, Special Exception or Conditional Use Permit.

Matt Sullivan reviewed the PowerPoint presentation relative to such, see attached.

*Chairman Barnard opened the public hearing.*

Roger Murray III, stated he is representing Lake Wentworth Association in support of the Board's efforts to support the statutory requirement for such. He stated he supports the amendment however, expressed concern for the size of the ADU proposed and stormwater runoff; noting the intensity of use is being doubled. He requested the Board review the formula based on the total floor area. He recommended requiring the ADU be attached to the primary dwelling (i.e.: common wall) and questioned the nonconforming use provision and condominium conversion.

Mike Hodder stated the language of the proposed ordinance is currently being reviewed by Town Counsel. He stated the size of the ADU is a maximum of 750 SF.

Roger Murray stated that if a second dwelling is not allowed then how is an ADU permitted. He noted the ordinance currently limits the expansion of a nonconforming use.

Kathy Barnard stated the Board will seek Town Counsel's guidance regarding nonconforming use and whether the proposal should refer to habitable floor area.

Suzanne Ryan noted inconsistencies with the format of the proposed ordinance and requested the format be consistent to include Authority as the first paragraph followed by the definition, purpose and then body of the ordinance. She stated the proposal does not address the number of occupants, either by people or bedrooms; noting occupancy can be limited by the number of bedrooms per the US Department of Housing and Urban Development. She requested the Board review such. She questioned the legality of requiring the ADU and primary dwelling remain in common ownership; noting such may address the condominium conversion issue. She questioned whether the Board would consider a breezeway as a connection between the ADU and primary dwelling and recommended requiring a minimum of two off street parking spaces for the ADU. She stated the Town has a good definition for parking and screening in the Wolfeboro Falls Limited Business District and questioned if such could be used in the ADU ordinance. She recommended adding electric in the questionnaire section of the permit and provided the Board criteria for approval as outlined in the ADU Model Ordinance through the Rockingham Planning Commission for review and consideration.

Matt Sullivan stated there is an ability to cap the number of unrelated individuals despite the inability to regulate such. He stated the intent of the ordinance is to prevent two detached units and noted the Board is currently awaiting a response as to whether condominium conversion would have to be allowed under the statute.

Audrey Cline questioned the Special Use Permit process for residential properties.

Matt Sullivan stated the ordinance would be permitted by a Conditional Use Permit; noting such is a different process and would require Site Plan Review by the Planning Board.

**It was moved by Mike Hodder and seconded by Stacie Jo Pope to continue the Accessory Dwelling Unit Ordinance Public Hearing to January 17, 2017. All members voted in favor. The motion passed.**

#### **Wetlands Conservation Overlay District; § 175-10.Special Uses**

Kathy Barnard stated the Board felt there was a need for more flexibility in the ordinance following the review of several applications that came before the Board.

Matt Sullivan reviewed the PowerPoint presentation relative to such, see attached. He noted a technical error that would require a second public hearing (Section C.(2); change “B(1), (2) and (3)” to “C.(a), (b) and (c)”.

Chairman Barnard opened the public hearing.

**It was moved by Mike Hodder and seconded by Paul O'Brien to continue the Wetlands Conservation Overlay District; § 175-10.Special Uses Public Hearing to January 17, 2017. All members voted in favor. The motion passed.**

#### **Bay Street Limited Business District; § 175-106.Permitted Uses and § 175-107. Special Exception Uses Wolfeboro Falls Limited Business District; § 175-116.Permitted Uses and § 175-117.Special Exception Uses**

Matt Sullivan reviewed the PowerPoint presentation relative to such, see attached. He noted a technical error that would require a second public hearing (footnotes) if the Board decides to include such. He recommended the Board discuss the issue at its 1/3/17 meeting and continue the public hearing to 1/17/17.

Chairman Barnard opened the public hearing.

Kathy Eaton, resident and EDC Chairman, stated she supports the proposed change as it creates the potential for more lodging establishments in the Downtown area.

Suzanne Ryan observed that the districts are almost identical however, questioned why references to parking and garages are noted in only the Wolfeboro Falls Limited Business District.

Matt Sullivan noted there are four provisions noted in the Wolfeboro Falls Limited Business District however, only two of the provisions are noted in the Bay Street Limited Business District.

Kathy Barnard stated the Board would review such.

**It was moved by Stacie Jo Pope and seconded by John Thurston to continue the Bay Street Limited Business District (§ 175-106 and § 175-107) and Wolfeboro Falls Limited Business District (; § 175-116 and § 175-117) Public Hearings to January 17, 2017. All members voted in favor. The motion passed.**

## **Site Plan Review Regulations; § 173-27.2.Outdoor Lighting**

Kathy Barnard stated new lighting standards were adopted in 2009 that prohibited LED lights.

Matt Sullivan reviewed the Powerpoint presentation relative to such, see attached.

*Chairman Barnard opened the public hearing.*

*There being no questions or comments, Chairman Barnard closed the public hearing.*

**It was moved by Mike Hodder and seconded by Paul O'Brien to adopt revisions to the Site Plan Review Regulations, specifically § 173-27.2.Outdoor Lighting. All members voted in favor. The motion passed.**

## **II. Public Comment**

Kathy Eaton reviewed her letter, dated 12/20/16, and the attachments noted therein, see attached. She stated the EDC were informed last week that the Planning Board is not including the change in the regulations that remove the 50 room limit in the definition of Hotel. She stated the EDC was quite surprised and is concerned for such; stating the 50 room limit establishes a barrier and should not be put off for another year. She stated there is strong evidence that the Town is in need of year round lodging; noting that conferences would stabilize the economy on a year round basis. She requested the Board to reconsider including the change in the definition.

Kathy Barnard stated the Planning Board considered removing the 50 room limit however, agreed to also consider architectural standards for buildings over 4,000 SF. She stated the Board was not able to complete the architectural standards therefore, agreed to complete such in 2017 for both to be placed on the 2018 warrant.

Alan Harding stated the Town is in need of more rooms; noting Ms. Eaton spelled out the case for such. He stated the Town needs to support the merchants year round and recommended letting the investors make the decisions regarding the number of rooms. He recommended continued discussions between the EDC and Planning Board every two months in a joint session.

Vaune Dugan agreed that the Board and the EDC should meet with one another due to the lack of communication and perception. She stated it is clear the Town has room in the winter that aren't being occupied. She stated it is very important to consider aesthetics.

Alan Harding stated the Planning Board can dictate to investors what can be built.

Mike Hodder stated he shares the EDC's interest in stimulating the Town's economy however, the Board has to ensure that what comes into the Town benefits the economy, the Town and fits aesthetically. He stated the study contracted by WEDCO is not a public document and the Board has not been provided such rather, the Board is asked to rely on the EDC's relation to its content. He stated Spurrier Consultants speak to franchise hotels on one acre lots; noting the Board needs to exercise further diligence and establish architectural guidelines.

Paul O'Brien stated how the 50 room count was derived is irrelevant. He stated the Business and Retention Program study notes that the lodging industry has a large impact on the community. He recommended a public interest forum that includes the existing hotel owners to determine if the Town is in their way or not. He stated the Town should make the existing hotel owners very successful and to start there. He questioned whether a hotel investor would have access to the WEDCO study. He recommended the Board work on the architectural standards in 2017 for warrant in 2018.

Vaune Dugan stated the Board needs to continue to work on the issue and include the existing hotels and Bed-and Breakfasts.

Kathy Eaton stated the EDC feels that the present regulations would preclude box hotels; noting that more regulations are not necessarily the answer. She noted the Town has one chain hotel; The Wolfeboro Inn. She requested continued communication between the Board and the EDC to ensure their goals remain the same.

Kathy Barnard noted the Town has existing architectural design review guidelines however, they are not mandatory guidelines. She stated the Master Plan supports additional lodging.

John Thurston stated the design standards could provide incentives to investors.

**It was moved by Paul O'Brien and seconded by Mike Hodder to table discussion of Hotel definition and place such on the 2017 Work Program; further review of such to include a public forum for stakeholders. All members voted in favor. The motion passed.**

### **III. Informational Items**

#### **Petition Warrant Article**

Matt Sullivan stated the Board received a Petition Warrant Article to amend Chapter 175-44, E. Placement of Signs, (1) and (2); noting the public hearing for such is scheduled for 1/17/16.

Paul O'Brien requested the EDC and Chamber of Commerce provide comment at the public hearing.

#### **Green Oak Excavation Permit**

Matt Sullivan stated the New Durham Planning Board has received an application for an excavation permit; noting the operation would be located on Kings Highway (Middleton Road) and the area of excavation is undefined. He was asked by the BOS to prepare a memo to submit to the New Durham Planning Board and request them to consider the proposal as having regional impact. He stated the application will undergo review by the Strafford Regional Planning Commission and LRPC would also make comments. He noted the application was continued to 1/3/17. He reviewed his memo, dated 12/16/16.

Vaune Dugan recommended requesting a traffic impact study.

Kathy Barnard noted the impact would be primarily to residential neighborhoods in Wolfeboro.

John Thurston expressed concern for traffic entering Kings Highway from Middleton Road during the hours of school transportation.

Matt Sullivan stated the hours of operation could be limited however, the level of review is unclear.

Vaune Dugan questioned the distance from the proposed operation to Wolfeboro.

Matt Sullivan stated the properties directly abut Wolfeboro properties.

Roger Murray stated there is no active commissioner from Wolfeboro on the LRPC which could pose a problem.

**It was moved by Mike Hodder and seconded by Paul O'Brien to submit a letter to the New Durham Planning Board articulating concerns regarding the Green Oak Excavation Permit as noted in Staff's memo, dated 12/16/16, and request a traffic impact study due to the impact to the residential neighborhoods. All members voted in favor. The motion passed.**

**IV. Planning Board Subcommittee Reports**

None.

**V. Approval of Minutes**

December 6, 2016

*It was moved by Vaune Dugan and seconded by Mike Hodder to approve the December 6, 2016 Wolfeboro Planning Board minutes as submitted. All members voted in favor. The motion passed.*

**VI. New/Other Business**

None.

*It was moved by Mike Hodder and seconded by Stacie Jo Pope to adjourn the December 20, 2016 Wolfeboro Planning Board meeting. All members voted in favor. The motion passed.*

There being no further business, the meeting adjourned at 9:30 PM.

Respectfully Submitted,

*Lee Ann Keathley*

Lee Ann Keathley

***\*\*Please note these minutes are subject to amendments and approval at a later date. \*\****