

TOWN OF WOLFEBORO
PLANNING BOARD
August 18, 2020
MINUTES

I. Call to Order: Chairman Barnard opened the virtual meeting at 7:00 PM.

Kathy Barnard read the following script:

Due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order #2020-04, this Board is authorized to meet electronically. **However, the Planning Board has jointly decided to proceed with a 'hybrid' meeting format allowing for members of the public and Board to attend and participate in the meeting in-person or virtually.**

In accordance with RSA 91-A: 2, III, the Board has one member joining the meeting remotely, which a public body has the authorization to allow.

At this time I would like to take a roll-call vote of ALL members present. For those participating virtually, please indicate why your attendance is not reasonably practical and if you have any other individuals present in the room with you.

II. Introduction:

Members Present: Roll call: Kathy Barnard – yes, Peter Goodwin – yes, attending remotely (acknowledged there is one present with him), Brad Harriman – yes, Susan Repplier – yes, Mike Hodder – yes, John Thurston - yes, Julie Jacobs (alternate) - yes.

Members Excused: Vaune Dugan

Staff Present: Matt Sullivan, Director of Planning and Development, Mary Jane Shelton, Recording Assistant.

Votes taken during this meeting will be via roll call vote for all members.

In accordance with Emergency Order #12, for members of the public, this is to confirm that we are:

1. Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means through GoToMeeting. All members of the public and Board have the ability to

communicate contemporaneously during this meeting through the GoToMeeting platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone #+1 (646) 749-3122 followed by the audio access code 918-242-429, or by video following the directions on the Town of Wolfeboro Website posted on the home page under the Virtual Town Meeting Login Information page.

2. Providing public notice of the necessary information for accessing the meeting; we previously gave notice to the public of how to access the meeting in-person or using GoToMeeting and in, and instructions are provided on the Town of Wolfeboro website at wolfeboronh.us on the Virtual Town Meeting Login Information page.

3. Providing a mechanism for the public to alert the public body during the meeting if there are problems with access; If anybody has a problem accessing the meeting via phone or computer, please immediately call 603-391-8489 OR email planningdirector@wolfeboronh.us In the event that the public is unable to access the meeting, we will adjourn the meeting and have it rescheduled at that time.

Thank you.

III. Scheduled Appointments/Public Hearings: None

IV. Action items:

Voluntary Lot Merger

Tax Map Lots 143-019 and 143-016

Declaration of Trust Paul A. O'Brien and Paul A. O'Brien, Trustee

Matt Sullivan gave an overview. The applicants are asking for the merger of two lots located on Christopher Court/Jason's Way. Lot 143-016 is approximately 1.01 acres and Lot 143-019 is approximately 1.09 acres. Both are conforming from an area perspective. Lot 143-016 is occupied by a primary detached dwelling unit which appears to be non-conforming due to its encroachment into the side and rear setbacks, while Lot 143-019 is currently vacant with frontage on Jason's Way. The merger resolves the nonconformity of Lot 143-016 with the side setback encroachment. As a result, Matt Sullivan recommended the lot merger be approved by the Planning Board.

Mike Hodder asked if the current easements survive the merger. Matt Sullivan responded in the affirmative. Mike Hodder then questioned the difference between the photograph and plan presented with respect to the turnaround circle. Matt Sullivan stated the turnaround was not constructed in conformance with the plan, resulting in the difference being questioned.

Motion to approve the Voluntary Lot Merger of Lots 143-019 and 143-016 was made by Mike Hodder and seconded by John Thurston. Roll call vote: Mike Hodder - yes, John Thurston - yes, Brad Harriman - yes, Susan Repplier - yes, Peter Goodwin - yes,

Julie Jacob (as alternate for Vaune Dugan) - yes, Kathy Barnard yes. Merger was approved by unanimous vote (7-0).

V. Public Comment: None

VI. Other Business/Discussion:

a. Drive Thru Restaurants:

Kathy Barnard stated that the Board needs to address the concept brought forth by Paul Zimmerman at an earlier meeting and decide whether the Board wants to move forward or not.

Kathy Barnard proposed for discussion the concept of allowing drive thru restaurants on properties of 1+ acres in the central business district with a special exception and not a permitted use. Currently drive thru restaurants are not allowed by a special exception and are a prohibited use at this time.

Mike Hodder felt the 2017 and 2020 town vote (2 to 1 ratio against) is indicative of what the residents of the town would like. He advocated a public hearing/information session to allow residents to express their views on the topic, and then take appropriate action based on the results of that session - i.e., no longer pursue drive thru restaurants or initiate a formal study to move the issue further along toward the special exception proposal.

John Thurston compared the similarities of circumstances that occurred as a result of COVID restrictions to that of drive thru restaurants.

Mike Hodder expressed a concern with branding that he feels is indicative of drive thru restaurants, particularly franchises, and will be accompanied by signage, traffic and parking issues.

Susan Repplier inquired if it was possible for the Planning Board to not make a recommendation one way or the other prior to a public vote.

Peter Goodwin advocated the public hearing/information session.

Matt Sullivan clarified that, unlike the Board of Selectmen, the Planning Board weighs in on zoning articles that are presented on the public ballot. He stated that the Planning Board can make a decision to not take a position, but warned that it may set a problematic precedent.

Brad Harriman feels that we owe it to voters who did vote in favor of drive thru restaurants, coupled with the public reaction to how restaurant service has changed with COVID, to have a public hearing/comment session.

Mike Hodder suggested that, in light of the transition period the Planning Department is facing, a public session should not be held until sometime in the fall.

John Thurston suggested putting something on the Town website to gather public feedback on the subject in addition to an information session.

Mike Hodder suggested that a follow up letter be sent to Paul Zimmerman advising him of the Planning Board's intention to further address his drive thru restaurant proposal.

b. Shorefront Residential District - Proposed 2021 Amendments:

The Wolfeboro Waters Committee was created by the Board of Selectmen to deal with water quality issues in all of the lakes. Kathy Barnard is a member of this committee. The subcommittee which she is a member of has met to discuss the various regulations. The most important seems to be clarifying the regulations for redevelopment projects.

Matt Sullivan walked the Board through the July 31, 2020 recommended changes as identified on the Article IX, Shorefront Residential District regulation handout.

§175-67 Shorefront Lot Improvement Standards

On page 3: Impervious surface area limitation -

A.(1)(b) If a homeowner or developer propose a project that will exceed 15%, at least one stormwater management system shall be implemented in the proposed development which may include, but is not limited to: rain garden, infiltration trenches, pervious driveways, dry wells, etc. All proposed stormwater management systems must be verified via photographic documentation to be submitted and favorably reviewed by the Town prior to the issuance of a Certificate of Occupancy.

(c) ...infiltrate increased stormwater from development...for square footage exceeding 20%...

Any project proposing a decrease in impervious coverage shall not be required to provide a professionally engineered stormwater management plan provided that the decrease in coverage produces a minimum of a 1% reduction of the lot coverage within 250' of the reference line.

All proposed stormwater management systems must be verified via photographic documentation to be submitted and favorably reviewed by the Town prior to the issuance of a Certificate of Occupancy.

Planning Board comments to the suggested changes to this section were as follows:

Mike Hodder recommended:

- specifying the range for impervious coverage in the regulation.
- changing "are" to "is" in Section A.(1)(b), line 3, as reflected above

- separating the section addressing decreases in impervious coverage and making it a separate paragraph - i.e., A.(1)(d)
- placing the language related to photographic documentation in both of the paragraphs related to increases (15% and 20%) but not the paragraph related to a decrease.

John Thurston asked for a practical example of a situation where this regulation would be applied. Matt Sullivan gave the example of a property owner who currently has 30% impervious coverage and they want to convert a paved driveway to a gravel pervious driveway, but the applicant simultaneously plans to add a massive structural expansion to the property in exchange (basically, substituting the percentages and avoiding a formal stormwater management plan). Matt stated that, during the process, the Planning Department asks for best management practices, but it is not mandated if they are effectively reducing the impervious surface even if only by 0.1%. John Thurston asked if this could involve properties where the runoff could affect an adjacent property or the lake, which Matt Sullivan confirmed affirmatively. Matt Sullivan further discussed baseline calculations and stated that this regulation is aimed at larger redevelopment projects and requires a PE stamped plan for an increase in impervious over 20%. However, if you can do something pervious with hand tools, such as a walkway, no permit will be needed. Two aspects to be considered with all projects are the effect on water quality and neighbor affliction.

Matt Sullivan advocated the recommended changes due to individuals taking advantage of the latitude afforded them by the current language in this section of the ordinance. He feels the 1% should be vetted further, but stated 5% seems too high. Currently, applicants are manipulating fractions of 1%.

On page 5: 50 foot setback from reference line -

C.(3)(1) All structures must be...(replace the word “primary” with “all”)

On page 6: Lot Redevelopment -

D.(1)(d) A narrative letter explaining how the project is more nearly conforming...(replace “an explanation” with “a narrative letter explaining”)

D.(2)...reducing the overalls square footage of structural footprints reducing the non-conformity of existing legally non-conforming structures AND enhancing stormwater management.

Planning Board comments to these sections:

Mike Hodder suggested under Lot Redevelopment:

- D.(1)(d) 2nd line, replace “information provided pursuant to” with “information required by”

Kathy Barnard will take this information back to the subcommittee. She also asked John Thurston to give more thought to the 1% threshold discussed tonight. The subcommittee is

also working on clarifying the stormwater management regulations. This project will be ongoing and completion is not anticipated until 2021.

Matt Sullivan explained that the current objective is to identify the problem areas and determine what improvements can be made. The suggested next step is to engage the services of an environmental firm and an engineer to closely review the regulations and make recommendations based on concerns the Planning Board has identified. The current regulations, although adopted by the Planning Board, are in semi-draft form.

Matt Sullivan further explained that the Waters Committee, appointed by the Board of Selectmen, is making some recommendations that ultimately will come under the authority of the Planning Board.

c. Proposed 2021 Amendments to Habitable Space Definition:

Matt Sullivan explained that the Planning Department is seeing a trend whereby two habitable spaces are being connected via a hallway, utility area, tunnel, etc. This effectively gives property owners the ability to create a guest house without it being a separate dwelling. Matt Sullivan stated that he is becoming uncomfortable with the current language of the requirements and interpretation of the same for the area used to connect the two habitable spaces. He is proposing the following language: “**Hallways, breezeways (open and enclosed), tunnels and the like, shall not be considered habitable for the purposes of connecting habitable open space areas.**” He believes the current language allows the creation of a guest house and circumvents the two primary structures requirement that exists now.

Planning Board comments to this proposed definition:

Mike Hodder requested clarification on the existing language relating to “first floor only” and if it applied to toilet rooms exclusively or to the other areas listed (closets, halls, storage, utility spaces and similar areas) as being not considered habitable. Matt Sullivan stated that the first floor exclusion related only to toilet rooms and will revise the language to reflect such.

d. Proposed 2021 Amendments to Mean Natural Grade Definition:

This item will be discussed at a later date to accommodate input from Vaune Dugan who is not present at this meeting.

e. Proposed 2021 Amendments to Voluntary Design Guidelines:

Recommended revision involves replacing compliance with “Voluntary Design Review Guidelines” with “Architectural Design Standards in **§175-155 (Streetscape, Buffering, Screening); §175-106 (Bay Street Limited Business District - Permitted Uses); §175-107 (Bay Street Limited Business District - Special Exception Uses); §175-116 (Wolfeboro Falls Limited Business District - Permitted Uses); §175-117 (Wolfeboro**

Limited Business District - Special Exception Uses); §175-121.4 (Center Street/Route 28 Zone).

f. Visual Protection District/Review of Chronology:

Based on research conducted by Kathy Barnard, this was removed from the Planning Board work program in 2013-2014 based on a vote of members at the time. The new Master Plan has no reference to a visual resource protection. Instead, the new Master Plan includes a “recommendation to establish land use regulations that require new development be sited in ways that minimize the impact on public open space and public viewsheds on town or state roads or public property.” Kathy Barnard informed the Board that basically the Visual Resources Protection ordinance was disposed of and was not included in the Master Plan, but there was a new focus in the Master Plan.

Mike Hodder stated that he agreed with the Planning Board’s prior reiteration on this gnarly issue.

Brad Harriman concurred with leaving this off of the work plan, stating that he is not in favor of getting in subjective regulations on property owners.

Peter Goodwin suggested that the Board consider making sure that construction, where you can see, has more subtle colors and/or wood tones.

Julie Jacobs commented that the issue may have more to do with lighting, particularly at night.

John Thurston pointed out that one of the biggest issues is that visual protection is subject to individual perspectives/interpretations.

g. Lighting Committee Membership and Mission:

This was discussed at a prior meeting and no formal action was taken at that time. John Thurston felt setting up a committee is worthwhile. Susan Repplier and John Thurston will comprise the Lighting Committee and will propose members from the public at the next meeting. Three distinct issues: 1) lighting ordinance and how it relates to private property, particularly residential; 2) commercial lighting in the downtown core area and some other peripheral areas; 3) continuity of the Town’s lighting profile (look and feel) - i.e., dockside, Foss Field and residential lighting - which is under the purview of the Board of Selectmen. Although the Planning Board may not have jurisdiction in all of those areas, a discussion with follow up recommendations to the Board of Selectmen would be useful. Matt Sullivan will draft a mission statement for the Lighting Committee. Kathy Barnard noted that the Master Plan includes the Planning Board addressing this issue. Susan Repplier recommended placing an educational article in the newspaper on the available types and effects of lighting for residents. Peter Goodwin suggested asking the public for volunteers to serve on the committee.

h. Plan NH Charrette Update:

A hybrid Charrette option had been planned for October, 2020. The issue became the concern of Plan NH for their own personnel attending. End result is an agreement for each party to write a commitment letter to each other encumbering the monies that were budgeted last year and to look toward Spring of 2021 to hold the event.

h. Review of 2020/2021 Planning Board Work Plan:

Matt Sullivan reviewed the 2020/2021 Planning Board Work Plan handout. Discussion ensued on the following line items:

Review of Impact Fee Basis:

Matt Sullivan reiterated that he had previously recommended the Planning Board undertake a Fee Basis study to determine if the Impact Fee amount should be reduced or eliminated. It had been suggested to remove Impact Fees from the Town ordinance. The advice of counsel is not to remove it but rather to reduce the fee to zero. Rationale is that there may be a future need for an Impact Fee based on growth, etc. The recommendation was that the Planning Board review the Impact Fee basis to determine if there is no longer a need for an Impact Fee and then to take action as a Board to reduce it to zero, if appropriate.

Matt did contact Bruce Mayberry who was involved with the Impact Fee studies back in 2010 and he is willing to assist the Board with this. The study will likely take a couple months, after which the Board can make any changes administratively via a public hearing. Matt Sullivan explained that the Impact Fee recipient is the School Board. If the Impact Fee was removed completely the burden is shifted to the taxpayers. Over the past ten years the Impact Fees have ranged from \$30,000 to \$90,000.

Water Quality Chapter Addendum to Master Plan:

Kathy Barnard stated that the Waters Committee and related subcommittee will be doing background work related to this. Matt Sullivan commented that the shorefront residential issues discussed previously tonight and stormwater management regulations will contribute to this water quality chapter.

Full Review of Affordable Housing and Inclusionary Zoning Ordinance:

Matt Sullivan stated he had discussed with Kathy Barnard the likelihood of accomplishing this in 2020 considering the transition to a new Planning Director. He recommends that the basic affordable housing overlay changes be made and that the more comprehensive review and changes be made in 2021.

Insertion of 2020 Approved Zoning Changes into General Code:

Matt Sullivan advised that this has not been done yet and he will be checking for a status update.

Drive Through Restaurants Ordinance Review

Matt Sullivan advised that Kathy Barnard is writing a letter to Paul Zimmerman regarding this matter and that a public session is anticipated in November or December of 2020.

Balance of items on Planning Board Work Program:

Matt Sullivan individually reviewed the remaining items on the work program handout, updating the Board on the status and recommendations related to each.

i. Review of 2020 Budget Status/Discussion of 2021 Draft Budget:

Matt Sullivan proposed postponing this discussion to the September meeting when he would be able to provide more detail on it.

Matt Sullivan's Departure:

Matt Sullivan expressed his sincere thanks and appreciation to everyone for the opportunity to work with them over the last few years. Matt acknowledged the support, encouragement and confidence instilled in him by the Board members which has enabled him to take on his new position. In particular, he is very proud of his contributions to the Master Plan.

Kathy Barnard expressed gratitude from both her and the Board for all of Matt's efforts. She acknowledged that he always gives 100% and considers the Town very fortunate to have had him as part of their team.

VII. Approval of Minutes: None

VIII. Adjournment:

Mike Hodder made a motion to adjourn which was seconded by Susan Repplier. Roll call vote: Mike Hodder - yes, John Thurston - yes, Brad Harriman - yes, Julie Jacobs - yes, Peter Goodwin - yes, Susan Repplier - yes, Kathy Barnard - yes. Vote was unanimous by a vote of 7-0.

There being no further business, the meeting adjourned at 9:03 PM.

Respectfully submitted,

Mary Jane Shelton
Recording Assistant

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