

**TOWN OF WOLFEBORO
PLANNING BOARD
January 5, 2021
MINUTES**

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

Members Absent: Susan Repplier

Staff Present: Tavis Austin, Director of Planning and Development; Steve Paquin, Building/Code Enforcement Officer; Mary Jane Shelton, Recording Assistant

I. Call to Order - Chairman Barnard called the meeting to order at 7:00 PM.

II. 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.

III. Public Hearings - None

IV. Public Meetings -

Shorefront Residential District - Proposed Amendment to Ordinance

Chairman Barnard advised that the Planning Director and the Code Enforcement Officer brought to the Planning Board's attention that the proposed Shorefront Residential District amendments are creating an issue that needs to be addressed. Specifically, Section 175-67 C (1) currently states that all primary structures must be setback 50 feet from the reference line. The proposed amendment to be put on the Town Warrant eliminated the word "primary", simply stating "all structures must be setback 50 feet from the reference line." This proposed change creates a conflict by not allowing boathouses on the shorefront without obtaining a variance. This was not the intent of the proposed amendment. The objective was to improve water quality and stormwater management. The prior Planning Director had suggested the removal of the word "primary" due to his belief that it was redundant, and therefore unnecessary. In light of the current Planning Director and Code Enforcement Officer's interpretation and the potential issues with this change in wording, it is recommended that the proposed amendment be withdrawn and the language of Section 175-67 C (1) revert back to that which currently exists, reflecting that the setback apply to "all primary structures". In order to accomplish this the Board must hold a public hearing for discussion of the same.

Tavis Austin reiterated the staff's recommendation and reasoning behind keeping the word "primary" in the subject section of the Shorefront Residential District. He also confirmed there was ample time to have this change publicly noticed and discussed at the next Planning Board meeting so that it can still be placed on the Town Warrant for 2021.

After further discussion amongst Board members, it was agreed that the simplest and most clear wording for the Shorefront Residential District setbacks in 175-67 C (1) is to identify structures referred to as “primary”.

Vaune Dugan pointed out that the change may also apply to other non-primary structures in addition to boathouses.

John Thurston inquired as to whether a public hearing was necessary if the Board was merely reverting back to the original language of the ordinance. Mike Hodder explained that there were other changes being proposed within the same ordinance which had previously been noticed and discussed at a public hearing so that the Board could not simply withdraw the entire amendment.

Mike Hodder made a motion, which was seconded by Kathy Barnard, to approve the revised change to the Shorefront Residential District ordinance revisions; namely, the original recommendation to strike the word “primary” in Section 175-67 C (1) be withdrawn and subject section revert to read as follows, “all primary structures must be setback at least 50 feet from the reference line.” Roll call vote: Mike Hodder - yes; John Thurston - yes; Peter Goodwin - yes; Brad Harriman - yes; Vaune Dugan - yes to adding the word “primary”; Julie Jacobs - yes; Kathy Barnard - yes. Vote was unanimous 7-0 to approve motion.

Impact Fee Schedule Discussion:

Kathy Barnard referred to the analysis of impact fees which was provided to Board members and started the discussion by asking whether the consensus of the Board is to keep the impact fees. The impact fees were instituted by a public vote and have been levied since 2011 for the benefit of the school district.

Mike Hodder referenced a report prepared for the Planning Board by Bruce C. Mayberry of BCM Planning LLC entitled “Review of Wolfeboro School Impact Fee” dated December 8, 2020. In total, approximately \$388,000 has been collected in impact fees from various residential projects and those fees have gone toward paying down Wolfeboro’s portion of the school’s bond issue. He further commented that the impact fees seem to have been successfully borne by the market and sees no economic reason to discontinue such. Not seeing any downside to the impact fees, Mike Hodder questioned if the Board would consider expanding the scope of impact fees. Originally the impact fees were only imposed on residential projects to offset costs related to increased enrollment in Governor Wentworth Regional School District. However, there are any number of other projects, including commercial projects, which impact other town services and infrastructures. Mike Hodder pointed out that in the next ten years there are a number of substantial CIP projects scheduled which are not school related which would benefit from impact fees. He suggested that, if the Board were willing, impact fees could be retained under current guidelines and then be re-evaluated for possible expansion in the future to offset the impact on town infrastructure from commercial projects, etc.

Kathy Barnard explained that one of the reasons the Board was asked to review impact fees was due to the perception that the fees were interfering with the Town’s ability to encourage smaller and more affordable housing. Kathy clarified that basically the fees are only imposed on new dwellings (of any size), conversion of seasonal dwellings to year round and the addition of accessory dwelling units. Her concern is that fees were not being applied properly - i.e., smaller existing houses were being razed and

replaced by much larger dwellings. She also feels the basis for the program is outdated and needs to be

looked at. In summary, Kathy Barnard stated she believes the idea of impact fees is a good one as long as it is applied properly.

Brad Harriman wanted the Board to be aware that the Town currently levies water hook-up and sewer hook-up fees on commercial properties which, depending upon the size of the project, start at a cost of \$6,000 each. He would not propose expanding impact fees at this time, but acknowledges they need to be updated. He expressed his desire to support area businesses during the current strain imposed by COVID, and that by assisting with the viability of commercial businesses, we are aiding the financial health of the employees of those businesses as well as that of the community in general.

Julie Jacob asked for clarification on what was meant by “commercial” structures. Mike Hodder gave examples of commercial impact fees and their application in other jurisdictions that the Board may want to review and consider. Vaune Dugan questioned if, in those examples, impact fees are imposed when renovations are done on an existing structure which does not increase the square footage. Mike Hodder stated his understanding was that an impact fee is only applied when the renovated subject property is expanded and thus requires/utilizes additional infrastructure services.

Tavis Austin explained to the Board that one of the issues with Town’s current impact fees is that if an existing single family home is replaced with another single family home, no impact fee is imposed. However, what he has observed is a 3 or 4 bedroom home being replaced with a 7 or 8 bedroom home with no additional impact fee. Moving forward, his suggestion would be to have impact fees imposed based on the number of (or change in the number of) bedrooms or square footage. Conversely, another viewpoint to consider is impact fees on single bedroom units. While these units, most likely, are not going to have an impact on the school system, they may more heavily impact other town resources based on the occupant’s demographics. He further defined commercial structures, by building code definition, as those which contain three or more units (i.e., a structure that makes a profit) and briefly mentioned the benefits/pitfalls of connection fees versus impact fees. Tavis suggested that the Board consider aligning CIP projects with impact fees when discussing this further.

John Thurston expressed concern that any impact fees applied to a commercial structure would only be passed along to the consumer/tenant. However, he does feel that when a modest sized residential home is razed and replaced with one considerably larger, an adjustment to the impact fee should be considered. Mike Hodder rationalized that an investor of a commercial building, as a normal business practice, is going to include taxes, etc. as well as impact fees into the rent charged to a tenant.

Vaune Dugan stated that real estate taxes and the impact fees should both be taken into consideration when discussing a change to the existing policy, as presumably the basis for real estate taxes already factors in the size of the structure, etc. to cover infrastructure services, etc.

Peter Goodwin suggested, considering the current financial climate, that the Board keep the status quo but possibly look at updating the size of the impact fees.

Mike Hodder commented that the impact fees are vastly out of date as they have not been adjusted at all since inception despite the fact they are supposed to be evaluated annually and revised every six to ten years. The current fees were based on attendance figures, projected attendance figures and building

costs at GWRSD in 2010. Mike suggested that the Board 1) work on updating the fee structure; 2) impose impact fees to benefit the school, as is done currently, and get that policy in good working order; 3) enlist

the services of an outside consultant to assist with this; and 4) review possible expansion at a future date.

Kathy Barnard summarized that the consensus of the Board is to maintain impact fees at this time.

Tavis Austin explained that another issue with the current impact fees policy is the disparity in the fee amount between single family, duplexes and multi-family dwellings. He suggested that when the Board looks at revisions, with or without consultant input, that possibly a combination of square footage and number of bedrooms be considered for assessment of fees.

Mike Hodder suggested a review of impact fee policies used by various New Hampshire municipalities.

Kathy Barnard, Mike Hodder and Tavis Austin will meet to review the issues and report back to the Board on their findings prior to an update of impact fees.

Drive-Thru Restaurant Discussion - Committee Establishment

Kathy Barnard reviewed that the Board had previously decided to hold a public forum on this subject and that Mike Hodder had suggested some fact finding and specific suggestions prior to that. Mike Hodder, Susan Replier and Kathy Barnard are going to work together to come up with the basic information needed to have a good balanced discussion prior to hosting a public forum. John Thurston agreed with the proposed plan and asked if drive thru pharmacies could be included in the same. Kathy Barnard informed that the ordinance already allows for drive-thru pharmacies.

Tavis Austin noted there seems to be lack of general drive thru regulations - i.e., X square footage leads to X queuing stalls which leads to length of turning radius, etc. - basically design guidelines for a drive thru. Specifically what criteria the Board reviews when evaluating a drive thru site plan whether it be for a pharmacy or other type. He suggested a review of the regulations for access of vehicular accessed businesses. Kathy Barnard commented that it should also include staffing of the same.

The consensus was for the Board to proceed on this matter as outlined above.

Cook Letter Discussion - Lighting

Kathy Barnard reported that the Board had received a letter from Peter and Patty Cook regarding the lighting in the downtown, specifically the lit signs/advertisements in the realty establishments.

Tavis Austin summarized his review process of the subject "lighted panels" displayed downtown and his subsequent identification of them as "accessory signs" per the sign ordinance. Tavis further clarified that the ordinance does not address how many accessory signs one business or property may have. There are specifics in the ordinance regarding lettering, percentage of wall space covered, etc. which are allowable. Tavis consulted with Steve Paquin, Building/Code Enforcement Officer, who made a comparison to a reader board where information is changed frequently and emits light. A reader board, as defined in the Wolfeboro ordinance, however, is very specific to food. Tavis explained that he responded to the Cook's letter advising them of his determination that 1) subject lighted panels meet the definition of an accessory sign; 2) accessory signs are not regulated by the current ordinance; and 3) accessory signs do not constitute a lighting issue. He also pointed out that is not a lighting issue as there are currently existing signs, located across the street from the subject accessory signs, which received Planning Board approval and are brighter/more visible from the public way than the subject illuminated panels. Mr. Cook replied that he essentially agreed to disagree with this determination. Tavis re-reviewed the issue, came to the same conclusion and submitted it to the Town attorney to review who recommended that the determination

could stand. With respect to the lighting issue, Tavis is going to reinvigorate the lighting committee and inquire how they want to proceed with lighting regulations. He noted, however, any existing signage would be grandfathered prior to any new regulations, depending on how the ordinance is created.

Kathy Barnard stated her belief that all signs, including accessory signs, are regulated and asked for clarification from Tavis Austin on this. She also referenced a section of the ordinance which regulates the percentage of window coverage for signs and the requirement that the contents of signs over a certain percentage be changed at set intervals - i.e., signs advertising special sales. Kathy Barnard asked Tavis if the Board should revise the ordinance to include accessory signs. He recommended that, at a minimum, the Board include a definition of what an accessory sign is? If it is not a projecting sign, a window sign, a wall sign nor a reader board, then what is it and how many are you allowed to have? Specifics to include in the definition would be the distance from the glass, etc. as compared to a window sign which is on the glass and etched sign which is within the glass. When is a display considered a sign? As for lighting, he recommended that be addressed by the lighting committee.

Kathy Barnard asked if the prohibition on neon be expanded upon. Tavis recommended that regulations address LEDs and the temperature of LEDs.

Peter Goodwin added that noise regulations are based upon decibels and, therefore, consideration of regulations for lighting should be based on brightness or lumens as a determining factor which could be applied to any number of varying lighting technologies.

Mike Hodder asked if the sign committee should be reconstituted. Kathy Barnard responded that the sign committee had not been disbanded.

Kathy Barnard asked Tavis Austin if further discussion, definition and regulation of illumination would be advisable. Current regulations state illumination has to be from an exterior light source. Tavis responded that communities typically make a determination in favor or against interior illumination. Wolfeboro is not in favor of interior illumination, thus it must be exterior.

Kathy Barnard confirmed with Tavis that will work on scheduling a meeting of the lighting committee to address some of these issues which may trigger reconvening the sign committee as well.

John Thurston commented on the fact that this signage issue has existed through the administration of three Town Planners. Mike Hodder responded that, historically, regulating signage has been a moving target and not the result of an absence of attention to the issue.

Vaune Dugan commented that one aspect of lighting which instigated this issue is the color of lighting downtown. Some believe the color of the lighting, including street lights, which has moved from golden amber to blue white light is a reflection of the character of the Town. She believes the color and/or temperature of lighting should be a part of the lighting committee's purview.

Tiny House Discussion

Kathy Barnard advised the Board that this discussion was in response to an inquiry received from Ann Blodgett regarding tiny houses/homes which has been an item of discussion in the state legislature for

several years. Kathy asked staff for an update on the status of tiny house structures in Wolfeboro and if they are allowed to be parked on an individual's personal property.

Steve Paquin, the Building/Code Enforcement Officer, addressed the Board with an explanation of what constitutes a tiny house. He advised that a tiny house is not a legal structure based on the codes in Wolfeboro for the following reasons:

1. Does not have a permanent foundation
2. Does not qualify as a manufactured housing unit as recognized by HUD
3. Does not have a formalized definition - not a mobile home nor a recreational vehicle

There are currently two LSRs being presented at the state level, one in the House and one in the Senate. At this time we do not know the status of these bills. Currently there are no regulations on tiny homes - i.e., building, inspection, etc. There are also taxation issues.

The International Residential Building Code currently allows an individual to build a code compliant legal home of 140 sq. feet or greater as long as it is on a permanent foundation.

Another issue is septic service as composting sewer is currently not recognized. Water, however, needs only to be potable and does not need to be town water or a well.

Foundations for manufactured housing are designed with piers, tie downs/hurricane straps, pressure points, etc. and are regulated under HUD which makes them allowable.

Vaune Dugan brought up shed shacks which are located on islands. Steve gave the example of Reed's Ferry Sheds, which if placed on a concrete foundation and meet all of the other building code requirements, could be deemed a dwelling. Tiny houses cannot meet that test if it remains on wheels and does not have a permanent foundation.

Steve Paquin will keep the Board updated on any changes in the status of tiny houses at the state level.

Return of Fees:

Tavis Austin explained the fees to be returned represent monies for surety funds which relate to projects that are completed and the Planning Department is ready to close out. The procedure is that once a project is inspected, signed off and completed, the Town sends out notifications prompting the applicant to request the return of their surety funds. Letters were sent out to five entities that qualify for such refunds. The following three responded in time to be included on tonight's agenda:

- 1) Brewster Academy (Case #2016-21) - \$2,00.80 - 2016 Toad Hall
- 2) G. Antonucci (Case #2008-24) - \$2,389.57 - Center St. subdivision
- 3) P&D Zimmerman (Case #2017 - 08) - \$1,245.39 - Townhouses

John Thurston suggested that the funds for Brewster Academy not be released at this time. He based his request on his inspection of the deplorable condition of the bioretention area related to this project which was a condition of its approval. He further suggested that Brewster Academy be contacted and required to maintain the project as approved.

Tavis Austin advised that due to the time that has elapsed since the completion of this project, and the fact that everything was installed as outlined with nothing proven to the contrary, an inspection of the maintenance and functioning of stormwater management plan as approved should be performed.

Kathy Barnard suggested that Tavis Austin bring back results of that inspection to the Board so that they will have the required information to determine the next step. In the meantime, Kathy Barnard suggested the Board table the return of fees to Brewster and proceed with reviewing the return of fees to the other two entities.

Mike Hodder made a motion, which was seconded by Kathy Barnard, that the Board instruct the Planner to return the fees as enumerated above to G. Antonucci and P&D Zimmerman, Case #2008-24 and Case#2017-08, respectively. Roll call vote: Peter Goodwin - yes; Vaune Dugan - yes; Brad Harriman - yes; Mike Hodder - yes; John Thurston - yes; Julie Jacobs - yes; Kathy Barnard - yes. Motion was approved unanimously by a vote of 7-0.

V. Public Comment - None

VI. Minutes: Approval of minutes of 12/15/2020 Planning Board meeting

Mike Hodder made a motion, which was seconded by Peter Goodwin, to approve the minutes of the 12/15/2020 Planning Board Meeting as presented. Roll call vote: Peter Goodwin - yes; Vaune Dugan - yes; Brad Harriman - yes; Mike Hodder - yes; John Thurston - yes; Julie Jacobs - yes; Kathy Barnard - yes. Motion was approved unanimously by a vote of 7-0.

VII. Information Items/Other Business:

Tavis Austin reported that the Deliberative Session is February 2, 2021. It has not been determined if it will be held in the Great Hall or at the school. That decision will not be made until school is back in session.

Due to the conflict of the Deliberative Session with the regularly scheduled Planning Board meeting, it was decided to reschedule the February 2, 2021 Planning Board meeting to the following week and have it held on Tuesday, February 9, 2021.

Mike Hodder made a motion, which was seconded by Kathy Barnard, that the Board express their thanks to Mary Jane Shelton for her good performance and continued assistance with preparation of the Planning Board minutes. Roll call vote: Brad Harriman - yes; Peter Goodwin - yes; Vaune Dugan - yes; Julie Jacobs - yes; Mike Hodder - yes; John Thurston - yes; Kathy Barnard - yes. Motion was approved by a vote of 7-0 in favor.

VII. Adjournment:

Mike Hodder made a motion, which was seconded by Kathy Barnard, to adjourn the meeting. Roll call vote: Brad Harriman - yes; Peter Goodwin - yes; Vaune Dugan - yes; Julie Jacobs - 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 8:44 PM.

Respectfully submitted,
Mary Jane Shelton
Recording Assistant