

**TOWN OF WOLFEBORO
PLANNING BOARD
August 20, 2019
MINUTES**

Members Present: Kathy Barnard, Chairman, Vaune Dugan, Vice-Chairman, Paul O'Brien, Alternate, Mike Hodder, John Thurston, Peter Goodwin, Members.

Members Absent: Susan Repplier, Member, Brad Harriman, Selectmen's Representative, Dave Alessandrini, Alternate.

Staff Present: Matt Sullivan, Director of Planning and Development.

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

I. Introduction of Board Members

Chairman Barnard introduced the members of the Planning Board and Staff.

II. Scheduled Appointments / Public Hearings / Public Forum

N/A

III. Public Comment

Gayle Washington owner of Ohm Life Style Center LLC, located at 19 Elm Street stated she was requesting the Planning Board consider rezoning a portion of Elm Street to light limited commercial. Her vision is based on the historic nature of Elm Street; since the 1970's businesses have been in place. It's currently zoned residential and is a variance based neighborhood. Based on the goals and recommendations of the current Master Plan under general land use she feels her suggestion warrants zoning amendments. Gayle Washington pointed out that 90% of that area has been used as commercial for decades, is a proven viable business area within walking distance from the town and located in a safe driving area. Prior to her, there was over 20 feet of overgrowth out toward the road creating a visual barrier from the edge of pavement; she referenced a photograph (before and after) and noted if maintained, visibility would increase.

John Thurston asked how it was cut and by whom.

Matt Sullivan replied he worked with the public works department to have the state complete the cutting.

John Thurston inquired if this will be on the regular work schedule from here on.

Matt Sullivan confirmed it will be.

Vaune Dugan noted there are other parts of town, particularly on Center Street that have new turf/grass area not currently maintained by the state. Property owners appear to be mowing/cutting despite the fact it's not their property and all along the new area of Center Street where there is now an additional 5-8 ft. of grass is a gray area.

Matt Sullivan stated the town and state negotiated a deal somewhere between the 1950's-1970's to vary the maintenance responsibilities. Dave Ford stated this is a varied jurisdiction and in this case it was the states responsibility. Unfortunately, a map is not available for clarity.

John Thurston questioned if a property owner can cut in front of his/her house up to the road.

Matt Sullivan confirmed, yes up to the road but must be careful with what appears to be the right of way and ensure DOT will have no issues.

Gayle Washington reiterated the site line has been improved and the feedback well received. The idea behind rezoning will open up boutique, comfy, homey, walkable style of village commercial businesses based lot sizes, landscape, lake frontage, and natural setbacks. Signatures and letters in favor of the zoning change were obtained from the neighborhood i.e. abutters and folks that would be affected.

John Thurston inquired as to how many properties would be affected.

Gayle Washington replied roughly ten.

Vaune Dugan asked if all the property owners were on board.

Gayle Washington replied there was one property owner she has not been able to get in touch with.

John Thurston asked how many are residential.

Mike Hodder noted the importance of ensuring the majority of the residentially zoned homeowners are in favor and if this is the case, it would make sense for the Board to consider the zoning change. He asked if the letters Gayle Washington had obtained could be submitted to the Board for review; if they are willing to make the letters public.

Gayle Washington replied she will ask and get back to the Board.

Kathy Barnard asked for clarity pertaining to the variance.

Gayle Washington replied, variance based zoning is confusing for a driver passing by, they don't realize businesses are in place, whereas in a commercial zoned area, folks are aware traffic will be pulling in and out; therefore, making it safer. Additionally, having to go through the variance process for a small change takes hours which is very costly as it requires lawyers, surveyors and time. Building season is also short and a small project can be pushed off for a year.

Kathy Barnard noted if the Board were to consider rezoning, this would need to go through the voters which is not until March of 2020.

Gayle Washington confirmed she understood. She stated the commercially zoned properties will increase values and noted she did an informal walk around the neighborhood to speak with folks who would not be directly affected, the general consensus was a positive one; they were in favor.

Peter Goodwin reiterated Gayle Washington's comment, if zoned commercial it will increase the values of the homes and inquired if this will then impact taxes.

Matt Sullivan replied the zoning itself does not impact the assessment, what does is the actual use of the property. Therefore, if the zoning were to be changed it would not immediately increase taxes the property owner is paying but a change in use would.

Peter Goodwin suggested if the zoning were to change, property owners should be made aware.

Matt Sullivan agreed and stated it's a valid concern. The short answer is no, it will not affect taxes, but it will impact the sale.

Gayle Washington continued to discuss the difficulties business owners would face as they are limited to grow to the public demand due to time restraints and finding/funding resources in which to apply for a variance. She

noted signage options are also limited. Ultimately, strategic rezoning will allow Elm Street to be a more suitable environment to operate a business. Thus, aiding in the Master Plans goals to increase economic development in that area.

John Thurston inquired if Gayle Washington had a sign as she had stated signage is limited.

Gayle Washington replied yes and stated signage options are very limited as she had to adhere to very specific details pertaining to size. For instance, if over the size, it would not be permitted and was allowed 1 sign only. Attempting to adequately represent everyone working in her building in a fair way so that folks driving by could see the names was a challenge due to size restrictions. If there was a larger sign, traffic would be aware a business was being run there and more apt to slow down. Additional signage options will allow for businesses to better represent their brand and what they are providing, while also making it safer as traffic will slow. The ultimate goal is to have the Planning Board move to support and add a rezoning request to the warrant in March of 2020. She noted some of the community was present to discuss and support should the Board wish to hear this evening.

John Thurston questioned what Gayle Washington was attempting to do specifically with her business and why more information wasn't provided.

Gayle Washington replied her reason for coming to the Board is due to having it be a variance based neighborhood; it's difficult to run her business.

Mike Hodder asked if her presentation was public, the letter, the map and the original letter.

Matt Sullivan asked that Gayle Washington provide consent from property owners to submit their letters.

Gayle Washington replied she is comfortable and happy to provide all that is needed.

Vaune Dugan asked what the public hearing will be should the Board determine to move forward with rezoning the area requested.

Matt Sullivan replied the Planning Board will need to discuss it at a future work session or public hearings. Ultimately, when the Board goes through the public hearing process in December and January it will be noticed to the property owners in the impacted zone, (less than 100 properties) and it will follow in a similar fashion as the Filter Bed/Pine Hill Road process.

Kathy Barnard suggested putting on the agenda; the first meeting in September to decide how to proceed.

Mike Hodder recommended not placing on the schedule until Gayle Washington has had enough time to contact the people she's gotten the letters of support from, they've given her an ok, and the Board has the information.

Kathy Barnard addressed Gayle Washington and stated if that could be provided by the 2nd Tuesday in September they could proceed.

Gayle Washington replied she could provide much sooner if needed.

John Thurston referred to a letter and asked if 2 of the abutters referenced are on the same side of the street as Ohm as he questioned access.

Matt Sullivan replied the lot in question does have access.

Kirk Gilmore stated John Augustine was joining him and are the owners of 16 Elm Street. He noted the amount of traffic that utilizes his parking lot to turn around and the efforts put forth in maintaining and altering the appearance. The initial intersection coming onto 109A from Route 28 has been commercial for over 80 years and

would like to see it rezoned to allow for signage options and business growth. For instance the Klickety-Klack does not have any options for signage other than what is on the building due to not having access to the front of the property because of the limitations.

Vaune Dugan inquired about a zone name.

Matt Sullivan replied it would fall under the Limited Business District.

Kathy Barnard stated if the information is provided this will be placed on the agenda for the September 10th meeting.

IV. Action Items
N/A

V. Communications & Miscellaneous
CIP Minutes; August 6 & 9, 2019

TRC Minutes; August 7, 2019

VI. Work Session

Telecommunications Ordinance

Matt Sullivan noted areas of concern pertaining to the telecommunications/personal wireless facilities ordinance relating to non-compatibility of our existing ordinance with provisions of Chapter 12-K and the federal Telecommunications Act. Procedural and colocation issues also need to be cleaned up. Attorneys were recommended and contacted to assist with this process; therefore, Attorney Steve Grill is present to go through the documents with the Board.

Peter Goodwin asked if there is any latitude the Planning Board has with regard to updating.

Matt Sullivan replied some areas yes, others, no, and recommended to work with Attorney Grill on areas the Board has little latitude on, go into the existing ordinance to discuss recommendations i.e. camouflaging, and then have the zoning district discussion for a subsequent meeting.

Mike Hodder stated it might be premature to discuss things such as camouflaging due to not having any background information available, lack of time and recommended the focus be on the application attorney Grill has provided and questions raised in the planners memo.

Attorney Grill referred to his letter, see attached.

Mike Hodder questioned if the FCC Laws have been challenged.

Attorney Grill replied it's conceivable the 1st circuit would say the regulations are not enforceable but until that happens you follow the federal regulations. He pointed out there is not a great deal of difference between the 12-K as modified and the federal regulation. However, instead of attempting to follow both and determine how they align, he proposed following the FCC regulations and the tighter portions of the 12-K as a guideline.

Mike Hodder noted the 45 day deadline was opted for under the 12-K whereas the applicant would have 65 days under the FCC and questioned if Attorney Grill was comfortable not using federal rules under this case.

Attorney Steve replied yes, because the 45 days is tighter and the state can elect to have a tighter regulation than what the feds provided can't elect to have a more expansive timeline.

Mike Hodder asked if this might be challenged.

Attorney Grill replied no, it's good for the applicant.

Mike Hodder suggested the Board publically notice folks, hold a public meeting and have the planning department review for completeness and issue approvals.

Attorney Grill warned that can be a challenge due to timing.

John Thurston suggested a 2 year review.

Mike Hodder stated it would be best to then allow the planning department to handle the applications for colocation and for the approval to show up on the agenda to become public notice which also allows for the Board to be aware.

Attorney Grill then referred to the definitions provided, see attached. He stated the criteria is objective.

Vaune Dugan inquired what deployment meant.

Attorney Grill replied it means it is an installation/placement; where the equipment will be placed.

Paul O'Brien questioned placing antennas on telephone poles.

Attorney Grill stated a telephone pole would not be a tower but rather a base station. There are different rules for rights of way and when the FCC implemented the regulations chose not require municipalities in their propriety capacity to be subject to automatic approval. Essentially you're both the contracting party and the land use regulatory party. Where the structure is already there Attorney Grill suggested to prepare for the possibility of future requests.

Matt Sullivan noted the right of way ordinance will be discussed.

Mike Hodder questioned where the Board goes from here.

Matt Sullivan asked if the Board was comfortable with the proposed § 175-162-A, the application form as amended to remove #3, and the administrative level review through the planning department.

Kathy Barnard noted this will go through a public hearing.

Mike Hodder suggested fair copies of the all the documentation be distributed to the Board again and then hold a public hearing.

Matt Sullivan asked the Board to discuss the existing ordinance and the modifications the Board recommended to that as the final item for the evening.

Attorney Grill referred to Article XXXVI and recommended the following:

§ 175-162

- Add the underlined language
- Strike the location language pertaining to existing structures

§ 175-165 (2)(B)

- Change language to leave to the Boards discretion pertaining to paint/color/galvanized steel

§ 175-167

- Strike authorize and replace with comply
- Change publishing guidelines

§ 175-168 C(6)

- Add "prior to the pre-application conference or within 21 days prior to filing an application..."

§ 175-170

- Added language to first paragraph,
- Strike 175-162-1 and replace with 175-162-A
- Strike second paragraph (A), (1), (2) and last paragraph

§ 175-171

- Added language to permit Board to assist the public if complaints are made i.e. noise, appearance, integrity

§ 175-172

- Added language to assist with any issues pertaining to abandonment or discontinuation of use

§ 175-173

- Included 15 years as a limitation

Vaune Dugan asked if a structure can be replaced.

Attorney Grill replied if they comply then yes they can replace all the equipment exactly as is; if they are attempting to replace with something much larger the town has the authority to reject it.

Mike Hodder suggested to continue to build on this and be provided with some back up data.

John Thurston recommended a map showing the deficiency areas.

Matt Sullivan agreed that would be helpful.

Mike Hodder suggested when discussing zoning to have a map of the current cell tower deployments and a map of the gaps as delineated by the telecoms and look at the zones and how to accommodate telecoms while also protecting what is necessary to protect.

Matt Sullivan stated he provide the Board current sites, current telecom gaps, and population density.

Paul O'Brien excused himself from the remainder of the meeting.

Master Plan

The Board discussed cemeteries for the 2019 Master Plan.

Mike Hodder suggested the information is not needed for the Plan, some of the cemeteries are private and therefore, posting cannot occur.

Vaune Dugan questioned GALA comments.

Matt Sullivan replied he will look into. He noted the public hearing for the Master Plan will be held August 27th at 7:00 PM and the draft/agenda will be provided for review.

VII. New Business

N/A

VIII. Approval of Minutes

August 6, 2019

Corrections: Page 1, include Matt Sullivan's comment on the Conservation Commission (no concerns)

Page 2, paragraph 5, strike "is" after "concerned"

Page 5, under Work Session, paragraph 3, strike Economical chapter and replace with Economic Development

Page 6, paragraph 16, strike "Implantation" and replace with Implementation; paragraph 7, add "that" after "it needs to be updated"

Page 7, paragraph 3, add “the existing ordinance is not in proper form”

It was moved by Vaune Dugan and seconded by Peter Goodwin to approve the August 6, 2019 Wolfeboro Planning Board minutes as submitted. Kathy Barnard and John Thurston voted in favor. Mike Hodder abstained. The motion passed. 4-1.

IX. Planning Board Subcommittee Reports

N/A

It was moved by Peter Goodwin and seconded by Vaune Dugan to adjourn the August 6, 2019 Wolfeboro Planning Board meeting. All members voted in favor. The motion passed.

There being no further business, the meeting adjourned at 9:31 PM.

Respectfully Submitted,

Cathleen LaPierre

Cathy LaPierre

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