

**Residential Project Meeting
Meeting Summary
February 13, 2012**

Present: Judith Esmay, Jonathan Edwards, Vicki Smith, Kate Connolly, Iain Sim, Joan Garipay, Joanna Whitcomb, Judith Brotman

Minutes of February 6, 2012

The minutes of February 6, 2012 were reviewed and amended. On a motion by Kate and a second by Iain, the minutes were unanimously approved as amended.

Discussion about Nonconforming Lots and Uses

Iain has investigated some of the principles put forth in the West End zoning amendment by carefully analyzing how the amendment would impact individual properties and concluded that these zoning changes may create some new nonconformities. The Committee acknowledged that any zoning change may well create new nonconformities.

Referring to Jonathan's memo prepared for last week and the question: Does it matter if it is a chicken coop or garden shed? Should setback principles differ by neighborhood? Kate maintains that the principles set forth last week should apply to all neighborhoods. For the most part the setback policies and nonconforming use policies are applicable to all neighborhoods in Town.

Iain restated some of the agreed upon policies:

For any structure in a setback, none should be immediately demolished as a result of the zoning change.

Transient insubstantial low investment structures should not expand even into the conforming area; and if expansion is proposed, these nonconforming structures should be torn down and rebuilt in a conforming area of the lot.

Where there is a substantial investment in a structure, that structure should be able to be expanded into the conforming area without tearing down the nonconforming parts of the structure.

A building-code compliant foundation may be a useful way to identify structures that have been built with "substantial investment". Jonathan suggested considering if a structure is affixed to the ground as a defining indicator about substantial investment.

Ill defined terms should not be used. Judith Brotman pushed for clarity. If dollar amounts are used to determine substantial investment, their valuation means different things to different people depending on their economic circumstances. Substantial physical characteristics also need to be clearly defined.

Judith Esmay supported taking this issue to the public for discussion and guidance. The Board can identify the choices, present them to the public and get a feeling of community sentiment.

Substandard Lots

Jonathan said that there is a lot size below which lots should not be created. To eliminate of all the nonconforming lots, the ordinance would have to be changed to a minimum lot size equivalent to the smallest lot. Over time, this could create a pattern of land use that would not be preferred.

The lawful lot definition was read aloud and discussed.

The presumption is that all lots regardless of size can be developed as long as structures can be located in a zoning compliant way. All Committee members agreed to this statement.

Should a non-buildable lot be allowed to be created? Or if they exist, to what uses can they be put? Variances can be granted. Should the ordinance offer standards that could be used by the ZBA for granting variances? The variance standards are set by State law and court cases. These are set forth in Section 10.06. Interpretations of the standards dealing with public health and spirit of the ordinance should respect the 10 foot setback. The purposes of the section must include why a ten foot setback has been set forth in the ordinance.

It is conceivable that a very small lot in the rural district may not be able to accommodate a well and septic system and thus may not be able to support a residence, but could be used for other uses.

The minimum lot size may make some lot sizes as legally nonconforming. The lot size should not be injurious to the character of the neighborhood. This size will differ depending on the neighborhood.

Flag lots (pork chop lots) were discussed. The efficiency in land use was discussed. Maybe different setbacks should be required for these lots. It was decided that these lots should be called back lots with the pole portion referred to as the access portion and the back area referred to as the back area.

Judith Esmay suggested that area-wise the back part could be required to be twice as big as the access portion. These lots could be limited to areas where they might assist with infill and increasing density in neighborhoods. Common driveways would help minimize the curb cuts.

Back lots with extra precautions to protect against overcrowding, should be considered. The access part should be at least 20 feet wide. The back portion should be a certain size (to be established) and setbacks maybe be greater to provide privacy and reduce the sense of overcrowding. Committee members agreed that back lots should be considered.

The need for frontage on both sides of a corner lot was discussed. Contorted lots are not desirable.

Nonconforming uses

What should be our policy regarding the continuance of existing nonconforming uses?

There are a number of nonconforming uses in Kate's neighborhood that were all established before 1976. These include: parking platform, law office(now software), funeral home, the Marshall lot and two student houses. These are now legal nonconforming uses.

Kate thinks that expansion of nonconforming uses should not be allowed at all. Iain suggested that if the current nonconforming use can be expanded in such a way to conform to standards that we set for accessory uses, then it might be allowed to expand.

These are all expansions: change in exterior appearance/footprint/mass, change in type of business, addition of employees or associated uses. Kate noted that zoning district lines should not run down the middle of streets, but should instead run along rear boundary lines.

Committee members agreed that nonconforming uses should not expand. Could the law office be modified to accommodate an accountant or a retail yarn shop?

A legal nonconforming use if abandoned, with some indication of intent to abandon, may not be continued.

The transition from a home occupation to a business was discussed and members wondered about defining the threshold to establish so as to define when it becomes nonconforming? Expansion of the structure necessarily means expansion of use.

A mixed use area should be zoned that way.

Discussion about Consultant Scope of Work

Jonathan will put together all of the policy statements contained in the minutes to distinguish between those policies that have been agreed to and those which have not. The consultant will need policies refined enough to be translated into a zoning ordinance. We need to keep scope of work as focused as possible.

Our consultant will:

- hear from the public things we might not pick up,
- compile our policies into a zoning ordinance,
- assist the Planning Board in the public presentation,
- help screen some of the efficacy of planning techniques for use in Hanover,
- have the focused time to draft the Ordinance,
- have familiarity with NH law,
- have experience with form based code,
- be able to fully develop our agricultural and forestry aspirations,
- use illustrations to help define concepts rather than rely on words which may connote a different development pattern than intended by the Planning Board.

The consultant will meet with the Planning Board.

Next week the Committee will be on furlough. The Residential Committee will meet next when Jonathan has finished compiling the policies.

Meeting adjourned at 3:47 PM.

Respectfully submitted, Vicki Smith, Scribe