

**PLANNING BOARD
MARCH 13, 2012 at 7:30 PM
TOWN HALL, 41 SOUTH MAIN STREET**

In attendance:

Members: Judith Esmay, Joan Garipay, Jim Hornig, Michael Mayor

Alternates: Iain Sim

Staff: Vicki Smith, Jonathan Edwards

Others: See Attendance Sheet

1. MINUTES: Minutes of February 28th were approved.

2. PUBLIC HEARING ON ZONING AMENDMENTS FOR TOWN MEETING 2012

West End Neighborhood Overlay District: To create a new Section 213 & amend Section 204 (Tables 204.5 & 204.6) to read,

“Section 213 West End Neighborhood Overlay District

213.1 Establishment and Boundaries. There is hereby created the West End Neighborhood Overlay District. The boundaries of the West End Overlay District are established on the map entitled ‘West End Neighborhood’ which is on file in the office of the Town of Hanover and is hereby made part of this Ordinance. For purposes of identification, the signature of the Director of the Office of Planning and Zoning as of the date of adoption is indicated.

213.2 Objectives. The West End Neighborhood Overlay District is established to achieve the following objectives:

1. To protect the distinctive characteristics of the neighborhood’s character and streetscapes as those of a New England small town, in a manner that is supported by Hanover’s Master Plan;
2. To encourage change and reinvestment within the neighborhood in a manner that reinforces its existing character and streetscapes; and
3. To retain and enhance the pedestrian-friendly nature of neighborhood streetscapes through an emphasis on pedestrian entries, windows facing the street, active living space oriented to the street, and garages and blank walls oriented away from the street, consistent with prevailing patterns in the neighborhood.

213.3 Development Standards. All new construction shall conform to the following standards:

1. Any garages proposed to be build, relocated or expanded, shall be located behind or beneath the principal building or perpendicular to the side of the principal building with vehicular openings not facing the street, or, if located with vehicular openings facing the street, whether attached to or detached from the principal building, shall be set back at least three feet from the Building Front Line of the principal building. Vehicular

openings shall be no greater than one-third the overall width of the entire street elevation. For the purposes of this Section 213.3, a lot shall have only one Building Front Line and that line shall be on the side with a pedestrian entrance.

2. Buildings shall face the street so that windows and the main pedestrian entrance will be visible from and oriented to the street. Windows and pedestrian doorways shall comprise a minimum of 15% of the front building walls facing the street excluding the roof but including roof dormers with vertical windows. Fenestration patterns shall be designed so as to avoid blank garage walls facing the street.
3. Building shall not be set back farther from the street than the average set back of the residential properties on the same side of the block.
4. The front setback shall be established by the principal building that exists on the lot as of May 8, 2012. If there is no building on the lot, the front setback shall be established by the provisions of Section 209.2B Front Setback Regulations and Exceptions.
5. Unenclosed, unscreened porches with roofs may project eight feet into the required front yard setback, but may be no closer than 10 feet to the front property line.”

Table 204.5 “GR” General Residence: Amend the Area & Dimensions Table and language below to include reference of Section 213 for GR-1 & GR-2 front setback measurements.

Table 204.6 “SR” Single Residence: Amend the Area & Dimensions Table and language below to include reference of Section 213 for SR-1 and SR-3 front setback measurements.

Carolyn Radisch, co-proponent, said there was a question at the last meeting about the proposed overlay district and whether there was a front setback. A Statement Clarifying Front Set Back Requirements in the West End Overlay District was submitted in response. The Statement explains that existing zoning setback rules apply except to the extent that the overlay district requires a new structure be closer to the front lot line. Radisch said there are only 3 undeveloped lots in the West End neighborhood. For those lots, as proposed, “... *the front setback shall be established by the provisions of Section 209.2.B Front Setback Regulations and Exceptions.*”

Board Questions/Comments:

- In the case of a tear down, if that house happens to be further back than the average of all the other houses on the block, then there is a conflict with the proposed ‘not further back than’ rule.
 - Peter Owens, co-proponent, said that scenario was not considered by the proponents. It would require a future, relatively minor tweak in the Ordinance to say ‘except in the case when the building is farther back than the average’.

Public Questions/Comments:

- Ruth Lappin, of 80 Lyme Rd, urged the Board to not recommend this for passage. She questioned how an overlay district is established, stating that there is nothing in the Ordinance that describes them or the standards to create one.
 - Radisch said overlay districts are very typical. In Hanover, the floodplain is an overlay district. They are additional requirements that ride over base zoning that allow you to tailor zoning districts, established on a town-wide basis, to the peculiarities of a particular area.
- Lappin asked if Hanover’s Ordinance recognizes as a fact an overlay district. There is no definition of one in the Ordinance. That could cause problems.
 - Radisch said she does not know if the Ordinance defines everything there is to define but argued this is different. It is already in State planning law. Radisch reiterated the

- process the proponents have gone through to develop the current proposal. They looked at a number of options, obtained opinions from the town attorney, and worked with the Planning Director, Planning staff, and Planning Board for several months. Radisch said this is something that we all feel is comfortable, doable, and enabled under State planning law.
- Edwards noted that the RSA's do recognize overlay districts.
- Lappin asked how overlay districts relate to the Ordinance. She said the floodplain regulations are set forth in the Ordinance in full.
- Edwards said this amendment would do the equivalent of the floodplain section of the Ordinance. The floodplain is defined by FEMA maps. Its definition is contained in the Ordinance. This district is proposed to encompass an area defined by a map that would be put into the Ordinance as part of the amendment. It would work in tandem with the underlying district, basically having 2 sets of rules depending on a particular proposal.
- Lappin said the Board ought to have standards as to when to establish an overlay district to be in keeping with public policy and the purposes of our Ordinances. This would be the first time there is something in the Ordinance that says to a property owner, 'you must build your house X' from the property line; you cannot build it back any further.' Lappin said setbacks serve a public policy purpose and argued this would increase the non-conformity of structures, of which there is a whole body of case law in NH that speaks trying to get rid of non-conformities.
- Radisch said the proposal will not increase non-conformity, it will vastly decrease it. The problem that exists is that this residential district has very suburban setback requirements that are wholly inconsistent with its existing development pattern. The neighborhood was established over 150 yrs ago, prior to the establishment of zoning. The zoning pattern town-wide is nothing like the West End. The proponents want a consistent edge created around the street. That notion is completely counter to most suburban zoning ordinance district standards.
- Lappin asked whether this would create a precedent for other areas of town that have similar characteristics. She suggested it might be better to have the Town study the whole in-town suburban district to see whether there should be any radical changes.
- Radisch said the Residential Planning Committee (RPC – a Planning Board subcommittee) is, and has been, conducting that study over the last 3 yrs; however, there is a problem right now in her neighborhood with tear downs and new housing that are grossly out of character.
- Arthur Gardiner, West End neighborhood resident, said this is a neighborhood group that recognizes its residential, community-oriented, child-oriented, friendly kind of atmosphere. They want to preserve it and fear it can be eroded by the creation of mic-mansions set back from the road in a way that isolates them from their community.
- Lappin said the friendliness of a neighborhood is not determined by a setback or by having houses built in uniform order. She acknowledged the desire to maintain a New England town village scape but said this appears to impose design standards without being couched in those terms, such as requiring front doors facing the street, a certain amount of windows, etc.
 - A female speaker/West End neighborhood resident argued those elements are exactly what make a pedestrian friendly street. She said zoning, by definition, is designing a

- neighborhood at the highest level, if you take out building design. What we are saying is that we like the way our neighborhood is now and we want to reinforce it.
- Lappin said the current setbacks keep Hanover from having humongous houses on smaller lots. Allowing porches to expand into the front setback will lead to a lot of future applications to the ZBA by people wanting to enclose those porches. More big problems are who establishes the setback for each individual lot in this district as of May 8th and who maintains those records.
 - Radisch argued the setback designation could not be clearer than is stated in the proposed text where it states, *“The front setback shall be established by the principal building that exists on the lot as of May 8, 2012. If there is no building on the lot, the front setback shall be established by the provisions of Section 209.2.B Front Setback Regulations and Exceptions.”*
 - Relative to porches, Radisch said the proponents do not want the porches to be enclosed and become additional living space in the front setback. The amendment proposes, *“Unenclosed, unscreened porches with roofs may project eight feet into the required front yard setback...”*
 - Lappin argued that is another design feature.
 - Lappin recapped that (1) ‘building front line’ should be defined in the Ordinance; (2) The overriding character in this district is single-family homes; (3) It is not architectural style or the location of a garage that defines a neighborhood, it is the people; and (4) If the Board wants to build residential overlay districts into the Ordinance it should be done town-wide.
 - Radisch said waiting for this to be done town-wide is not possible. The RPC has talked about having more form-based standards. She insisted there is nothing about architecture in the current amendment.

Board Responses:

- MAYOR said there are 2 strategies that are workable: (1) wait until the entire town is surveyed and design a huge document that will apply to the entire town in a way that satisfies each neighborhood and its occupants; (2) start small, work on an overlay district in a specific area in response to its residents, put it in place, and see how it works. MAYOR said he is sensitive to the issue of design standards being the father of an Upper Valley architect. He is confident the Board has cogitated long and hard about this and is approaching this strategy responsibly, starting small and anticipating learning from that scale before applying similar efforts to a town-wide process.
- ESMAY noted last year’s passing of the Goose Pond amendment as the start of the process.
- HORNIG announced his intention to vote against the amendment. He said he is very impressed by the thought and care put into it. The discussions have been persuasive but he finds the proposal is neither necessary nor desirable for Hanover right now. He said without these changes there may be a number of cases in which new residents will conform to the spirit of what is being sought. In so doing, they may differ slightly in the position of a garage, the setbacks, and area of the windows; creating a new batch of non-conformities. There is no plus in that equation. The few, radically different constructions that could result might offend some of the neighbors, but probably will not do material damage to the appearance or character of the neighborhood or congeniality. HORNIG said the proposal is well-meant but is an overreaction to a perceived problem.

Its approval would be inappropriate for setting a policy precedent in Hanover right now.

Public Rebuttal:

- Robin Nuse, West End neighborhood resident, said she agreed that most people will build additions that will fit in. Unfortunately, there have already been at least 3 examples in the neighborhood of people that have not. That has and will continue to change the character of the street. Nuse asked the Board to endorse the amendment.
- A male speaker/West End neighborhood resident said the large house on the previously vacant lot on Downing Rd, with architecture that resonates as prison architecture, does negatively affect the street. He agreed with the notion of starting small, seeing how it works, and not repeating any problems that do arise. He urged the Board to treat this as an example of laboratory democracy.
- Jay Buckey, West End neighborhood resident, shared his experience living in large cities where he learned how acutely important a neighborhood design is to fostering a sense of community. He said the nature of why people are buying houses is changing. Houses are chosen due to their relationship with the Upper Valley, not a specific neighborhood. People are only planning to utilize these homes occasionally.
 - Radisch said the sterile, large city communities are what results from cookie-cutter standards and typical zoning. The closeness of buildings to the streets and locations of garages, dead spaces, and blank walls, affect the speed of passing cars. The proposed standards are very simple and straightforward in terms of guiding development that conforms to the context that we have established in the West End.
- Anne Downey, West End neighborhood resident, said West End residents do sit on their porches & interact with those passing on the street. Those 5-second encounters make the difference.
- Carolyn Cravero, West End neighborhood resident, expressed appreciation of the Board's efforts in reviewing the proposal. She said there is nothing in the current zoning that allows for a voice in terms of the character of a neighborhood. This is about preserving the beauty, walkability, and friendliness of our neighborhood. New residents may not have the appreciation we are talking about. We don't have the luxury of putting this off.
- Owens spoke of the number of residents that enjoy the walkable character of the West End neighborhood. He said 3 qualities that one might associate with a walkable neighborhood are: (1) Scale - how you see open space, (2) How a house relates to the street, doors, windows, porches, and (3) The issue of not being dominated by bureaucracy. He said the majority of homes in the neighborhood already meet the standards that would be put in place. As a designer himself, he does not like fussy rules about what he can do but said he does not think these are fussy rules. They are common sense, modest, simple guidelines that can help future development in the neighborhood be more in keeping with what already exists.
- Gardiner asked the Board to take into consideration that there is an imminent problem here. There are houses/lots ready for development that are being advertised for development that can significantly change the atmosphere and the area in which they may be built. He agreed there are imperfections in the proposal because of the procedural way in which it was presented to the Board, but said they are very minor.
- Lappin pointed out a typo in paragraph 3 of the petition. Edwards said that is clearly a scrivener's error of which can be edited.

- Radisch urged the Board to endorse the proposal because it is good planning and is looking to the future which is what we need to do here. The process has been very inclusive with the neighbors. We built consensus over the process which is important in any planning process and came to a solid proposal.

Staff Follow-Up:

- Smith said Judy Brotman, Zoning Administrator, asked her to advise the Board that though the proposal may not be perfect, Brotman feels very comfortable with enforcing the provisions as submitted. If there are problems with any proposed development, the matter will have to go before the Zoning Board.

ESMAY noted the receipt of 4 brief emails from Thomas _____(?), Winnie Zappala, Mike Silverman, & Mary Brown in support of the petitioned amendment. She advised of the Board's policy relative to late submissions stating that the emails will not be attended to, but merely noted. Nuse reported of correspondence from 2 other supporters, Melissa Bresden, & Tedd Williamson. Smith advised that they were not delivered to staff prior to the start of the meeting.

ESMAY closed the public hearing.

It was moved by MAYOR, seconded by GARIPAY, that the Board express support for the West End Neighborhood Overlay District zoning board amendment. SIM advised of his support of form-based zoning but said he has consistently expressed the view that the standards that might apply in the proposal should really recognize and represent the existing character of the neighborhood. He is still concerned that is not the case. He said these standards are not necessary and expressed concern for the extent to which they will impede upon the freedom of property owners to say what to do with their buildings. Further, there are conflicts here that need to be resolved. ESMAY noted that her vote on the matter is very much informed by the work of the RPC. Many of their meetings were walking tours of Hanover's residential neighborhoods. She said in the best of all possible worlds, this would be done all in one fell swoop; however the exigencies of this neighborhood warrant the piecemeal approach as was done for the Goose Pond area. **THE BOARD VOTED THREE IN FAVOR (Garipay, Mayor, Esmay) and TWO OPPOSED (Hornig, Sim). THE MOTION CARRIED.**

Rebuilding of non-conforming structures need not be a replica: To amend Section 803 to read,

“Section 803 Change of Non-Conforming Structures

A non-conforming structure may be enlarged or extended if no part of the enlargement or extension violates any dimensional requirement of this ordinance.

If the non-conforming structure is non-conforming only with respect to setback requirements, it may be enlarged or extended if the enlargement or extension would be:

- A. No closer than the existing structure to the lot line(s) to which the existing structure is non-conforming;
- B. No higher than the existing structure; and
- C. No closer than the closest point of the existing structure to a structure on an adjacent

property.

The Zoning Board of Adjustment may grant a Special Exception for an addition to a non-conforming structure, which is non-conforming only with respect to setback requirements, and which proposed addition extends no closer than the existing structure to the lot line(s) to which the existing structure is non-conforming, even if criteria (b) and/or (c) above are not met, if it finds in the circumstances that the criteria of Section 206 are met. Any other enlargement or extension shall not take place unless a Variance is obtained under Article X.

If a non-conforming structure has become structurally deficient the Zoning Administrator may issue a zoning permit for the razing, rebuilding and restoration of such structure ~~as a replica of the exterior of the original structure, being~~ **provided the new structure is** no larger in volume, foot print, floor space and height than the original structure, and in substantially the same location.”

ESMAY said the change requested at the last hearing was removal of the word “substantially” in the very last section. The amendment has been resubmitted by the Zoning Administrator with that change.

Board Comments/Questions: None

Public Comments/Questions: None

It was moved by MAYOR, seconded by HORNIG, to move this forward to the Town Warrant with the Board’s recommendation for adoption. There being no further discussion, **THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.**

Accessory structures: To amend Section 210.2 to read:

“In the RO, GR and SR districts, the gross floor area of all buildings devoted to accessory uses on any lot may not exceed 25 percent of the gross floor area of the principal building thereon. **For the purposes of this section, there shall be a 600 sf allowance for a garage structure, in addition to the 25 percent for accessory structures, whether attached or not to the principal building.**”

ESMAY said this amendment includes a re-arrangement of words, at the Board’s request, to make it very clear that any garage structure not be limited to 600 sq ft but that 600 sq ft could be on top of the 25%.

Board Questions/Comments: None

It was moved by HORNIG, seconded by MAYOR, to move this proposal to the Town Warrant with the Board’s endorsement. There being no further discussion, including public comment, **THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.**

Temporary structures to assist person with disability: to create a new Section 310.3 and amend Section 1006.4 to read,

“310.3. Temporary permits may be issued by the Zoning Administrator for a period not to

exceed 18 months, to allow the use of a structure for temporary access (such as a handicap ramp) to permit a disabled individual to more easily and safely enter and exit a residence.

The following conditions must be met:

- A. The disabled individual has a continuing need to enter and exit the residence.*
- B. The property owner agrees to remove the temporary structure at the end of eighteen months, or apply to the Zoning Board of Adjustment for a Variance, to Accommodate Disabilities (Section 1006.4) and be granted such Variance.*
- C. The property owner will apply for a zoning/building permit for the temporary structure, and will meet all building code regulations.”*

1006.4 Variance to Accommodate Disabilities:

The Board of Adjustment may grant a variance from the terms of this zoning ordinance without finding hardship arising from the condition of a premises subject to the Ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises provided that the Board of Adjustment:

- A. Shall determine that any variance granted under these provisions shall be in harmony with the general purpose and intent of the zoning ordinance;
- B. May stipulate in the finding and the Notice of Action included in the variance that the variance granted pursuant to these provisions shall survive only so long as the particular person has a continuing need to use the premises; and
- C. Shall require that the owner of the premises pay to the Town of Hanover all costs of recording the Notice of Action regarding such variance in the Grafton County Registry of Deeds; such recording shall be done by the Town of Hanover.

A temporary permit may be issued by the Zoning Administrator, under Section 310.3, to allow the use of a temporary access structure (such as a handicap ramp) to permit a disabled individual will to be able to more easily and safely enter and exit a residence.”

ESMAY said the wording of this amendment was conformed to improve the proposal.

Board Questions/Comments: None

It was moved by SIM, seconded by GARIPAY, to approve this zoning amendment and send it to the Town Warrant with the Board’s recommendation for approval. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

3. OTHER BUSINESS:

Annual Town Meeting 2011 Warrant Articles for Proposed Zoning Amendments Background Explanations: The Board reviewed & edited Edwards’ draft write-up.

Next meeting: April 3, 2012

4. ADJOURN: The meeting adjourned at 9:15 PM.