

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

In attendance:

Members: Nancy Carter (Selectmen's Representative), Kate Connolly, Judith Esmay (Chair), Joan Garipay, Jim Hornig, Michael Mayor

Alternates: Bill Dietrich

Staff: Vicki Smith, Jonathan Edwards, Judy Brotman

Others: See Attendance Sheet

1. REVIEW PROPOSAL AND DISCUSS NEXT STEPS FOR THE RESIDENTIAL ZONING PROJECT

ESMAY presented the Report of the Residential Project Group to the Hanover Planning Board on the Residential Zoning Project (RZP), 13 November 2012. It explains why the RZP is needed, lists the Master Plan's seven core principles, describes the work done to date, and outlines the now revised RZP scope. A summary draft of the Residential Project - Policy Development - Final Compendium - May 14, 2012 was also provided to the Board but was not discussed. ESMAY said that the minutes of the Residential Project Committee, the compendium created from those minutes, and the compendium's draft summary are on file in the Planning & Zoning Office and on the Town's website.

Following the October 13th community workshop, the Board looked carefully at this project and agreed to trim it back to its original beginnings (to bring the Zoning Ordinance up to date and make it more accessible). The revised project scope is broken down into four tasks:

1. **Technical revision of the Zoning Ordinance.** ESMAY said this work has already begun, as Vanasse Hangen Brustlin, Inc. (VHB – the consultants hired to perform the technical zoning rewrite) is already studying Hanover's current Zoning Ordinance. VHB will meet with the Board for a number of dedicated work sessions to wrestle with the language of the proposed revisions. The work sessions will be open to the public and done with great transparency. These technical, administrative revisions may bring up policy issues. ESMAY proposed the creation of a subcommittee, consisting of one or two Board members and the Zoning Administrator, to scan VHB's work before it is presented to the Board. Upon completion of a final draft, the document will be presented to Town Meeting.

Edwards questioned whether VHB was asked to work up a list of issues they feel need to be addressed. If they discover inconsistencies with State law, or find contradictions amongst different sections of the Ordinance, how will the choices be identified and resolved? ESMAY said those are good questions for VHB.

2. **Zoning revision.** This task involves working with individual neighborhood groups to describe their neighborhoods as they currently exist. ESMAY proposed the creation of a subcommittee to work with Vicki Smith to prepare a guide for the neighborhood meetings to make best use of them.

ESMAY suggested tasks one and two could be done concurrently and be presented to Town Meeting at the same time. DIETRICH suggested that several areas with non-conformities that resulted from Ordinance amendments could pretty easily be fixed. The task two work, a more comprehensive look at each neighborhood and its non-conformities, is more complicated and will take more time to do. He suggested the Board could tackle the technical revision work in time to present to Town Meeting in 2013. ESMAY said her intention was to have VHB perform the technical revision and the Board conduct the neighborhood meetings.

Public Questions/Comments:

- Hilary Pridgen said non-conformities that result from Ordinance amendments are handled under a grandfather clause. Why are revisions necessary?
 - Brotman said some folks feel that having a non-conforming lot makes it a little harder to do what they want. It has been her experience that most of the non-conforming issues that people object to are related to non-conforming uses, or setback issues in in-town neighborhoods.
 - Edwards said houses that become non-conforming due to setback regulations require ZBA approval to be expanded.
 - A male speaker suggested that ‘grandfathering’ will become a non-issue because the goal is to minimize non-conformities.
- Jeff Boffa asked why not handle non-conformities on a case-by-case basis.
 - Edwards said there are specific areas with the same non-conformities that could be changed to eliminate the non-conformities without changing the rest of the town.
- Nina Lloyd suggested the zoning revision should be done before the technical revision. She asked whether VHB was provided a very specific format by which to make their recommendations.
- Bruce Sacerdote said it would be good to know how many variances are proposed annually to deal with non-conformities.
 - Brotman said the ZBA does not see many applications for variances, but they do see a number of special exceptions.
 - ESMAY said it is impossible to know the number of people that were discouraged from even trying to obtain the necessary approvals.
 - Edwards noted the time, expense and uncertainty of approval.
- Arthur Gardiner, ZBA Chair, said when you change technically improper provisions in the Ordinance, you stumble almost immediately into policy questions. Speaking on behalf of the ZBA, he said the ZBA, as an institution, takes no position on the question of whether this is a good idea, as they believe that would not be consistent with their role as the entity that will have to ultimately interpret this ordinance. At the same time, a number of ZBA members do have particular ideas of points in the Ordinance where there are technical imperfections. Gardiner said there are many fewer of them than some of this conversation would seem to suggest, perhaps only

half a dozen. There are many cases where you can see technical ambiguities in the Ordinance. A lot of those resulted in connection with one or more of the many amendments adopted over a period of 25 years. Those amendments involved tradeoffs between different people who have had different views of what should be permitted and what should not. Changing language to address ambiguities, under the preface of making technical fixes, enters you almost immediately into real jeopardy about altering the community consensus that was reflected when the amendments were adopted. Personally speaking, Gardiner said technical amendments are a good idea, and it's nice to have an ordinance that is more approachable by the community at large, but this project can lead to real confusion, and new ambiguity.

3. **Update of the 2003 Master Plan.** ESMAY said the current Master Plan was so thoroughly done 10 years ago. It continues to be a sound document and is not likely to require much revision. Its core principles are quite solid. New census data and other new information should flow into it and there needs to be new conversations around the core principles. This is another way in which the neighborhood conversations would be useful. CONNOLLY said updating the build-out analysis is also necessary.
4. **Consider revising the Zoning Ordinance to reflect the updated Master Plan.** ESMAY said this work would be done after 2014.

Board questions/comments: None

Staff questions/comments: None

Public questions/comments:

- A female speaker (Eve? Eva?) asked why the Master Plan is not being considered until after the zoning revisions.
 - ESMAY said the thought was that the technical review could go forward immediately. The work gained from the neighborhood meetings would feed into the Master Plan revision.
 - CONNOLLY said, aside from some of the numerical portions, the Master Plan is pretty well up to date. Nothing has changed, nor have any of the attitudes since it was completed.
- Chris Snyder said there was a lot of disagreement over the Master Plan communicated during the October 13th community workshop. The Board is underestimating the community's views. A Master Plan that anticipates the doubling of the population seems to be way out of the park and not something we should advocate for.
 - CONNOLLY said that would be discussed as part of the build-out analysis update.
 - Sacerdote said the growth forecast for 40 years from now is a really hard thing. We will have to think of some way to come to agreement.
- Pridgen said some suggestions appear to be pro-development, to make it easier for the developer or homeowner to do whatever they want. If the objective is to clarify the Ordinance, that is one thing. If it is to make it easier for a landowner to skirt around things in the Master Plan that we don't want to do, she is leery.

- Dave Cioffi said there seems to be a hard and fast rule to keep the population ratio 3:1 in the downtown. What does the Board envision the dangers being if it were 4:1, 5:1 or 3:2?
 - ESMAY said it is already closer to 4:1 right now.
 - Smith said the 3:1 ratio reflected the population balance when the Master Plan was revised. People were comfortable with it and wanted to keep it the way it was. Discussions of what different ratios might mean will occur during the build-out update.
- Cioffi asked whether expanding municipal services to the rural area fed into the rationale of the current ratio.
 - Edwards said a pretty fundamental policy in the Master Plan is that water and sewer services not be extended. That was an effort to buttress the notion that the rural area should not become much more densely developed than it was and still is.
- Nancy Collier, former Planning Board Chair, said much of the current Master Plan is applicable to the town today. We never really implemented all parts of that plan into community building. The task, as proposed, makes sense.
- Mike Nolan, said the town has a very strong Planning Board and asked of the cost and benefit of having an outside consultant do this work.
 - ESMAY said the cost is \$25,000. The benefit is that the Board lacks the expertise required to write an ordinance.
 - DIETRICH said his argument in support of assistance for the technical re-write is that when you get into the nitty-gritty, we are going to discover there are quite a bit of issues we still have to deal with. It is unknown how much work that will entail.
 - Edwards said another advantage is that VHB has experience in other places, seeing what works and what does not. They also know of different ways to approach zoning that Hanover has not tried.
 - ESMAY reiterated that every word VHB proposes will be presented in a public meeting setting.
- Boffa asked whether VHB works for a developer that owns undeveloped land in Hanover.
 - Edwards said no. The allegation was that they've done work for the company that is trying to develop the former Wilson Tire parcel in Lebanon. VHB has nothing to do with that land or the particular entity that owns that land. They have never been involved with a property in Hanover.
 - A male speaker said it was his understanding that VHB has worked with the Lebanon developer for a project proposed in Lebanon.
 - Boffa said that developer owns undeveloped land off of Greensboro Road; land that would have to be rezoned in order to be developed.
 - ESMAY said the last thing she wants around this project is some kind of shadow or shroud of even conjecture, if that might be the case. A definitive answer will be provided from VHB.
- Snyder asked wouldn't it be easier to draft a Q&A sheet of the sections of the Ordinance that are inquired about the most, than revise it entirely?
- A female speaker (Constance?) said it would allay a lot of fears if the public was made aware of the technical issues that will be addressed.
 - ESMAY said such a list would not be exhaustive. She does not want to misrepresent to the public a list that is not all inclusive. She recommended people read decisions of the ZBA. The following were mentioned as known issues:

- Section 206 Special Exception criteria – are they conjunctive or disjunctive?
 - Section 323 - the limits of generator testing in relation to noise standards
 - Uses of barns
 - Section 321 – the piling and storage of manure
 - Excavation which leads to commercial sale
- Gardiner said simple editorial changes, such as changing an “and” to an “or”, can be quite significant. He expressed concern for the ZBA’s task in interpreting the changes. There are things that really do need to be changed, such as preventing development on steep slopes and downtown parking. A lot of the technical clean up could be done without the assistance of a consultant. The idea of creating a guide/index for the Ordinance is a great idea.
 - A male speaker said he hopes there will be a mechanism whereby the ZBA will have a lot of input on the proposed changes.
 - ESMAY said three Planning Board members (CONNOLLY, DIETRICH, HINGSTON) have ZBA experience. The Zoning Administrator will also be involved.
 - Gardiner said every member of the ZBA will be contributing by way of written memos.
 - A female speaker thanked the Board for the work they have done.
 - Ed Chamberlain said the Town has reviewed 477 zoning permit applications in 2012. Each requires review of the Zoning Ordinance. This is not a trivial problem we are dealing with.

ESMAY said she sees no objection to the Board moving forward. She appointed DIETRICH to the technical revision subcommittee and GARIPAY to the neighborhood guide subcommittee.

2. OTHER BUSINESS:

Next meeting - December 4th

CONNOLLY advised of a questionnaire the Municipal Association has created to seek input for the regional master plan. Copies were distributed to Board members to complete.

Judy Reeve spoke about the Town’s hiring of Burnt Rock but her comments could not be deciphered from the taped recording due to paper shuffling. Edwards confirmed that VHB has been provided a copy of Burnt Rock’s report.

3. ADJOURN: The meeting adjourned at 9:00 PM.

Respectfully submitted,
Beth Rivard