

**PLANNING BOARD
MARCH 12, 2103 at 7:30 PM
TOWN HALL, 41 SOUTH MAIN STREET**

In attendance:

Members: Bill Dietrich (Vice-Chair), Judith Esmay (Chair), Joan Garipay, Michael Mayor; Iain Sim; Nancy Carter (Selectmen's Representative)

Alternates: None

Staff: Vicki Smith, Judith Brotman

Others: See Attendance Sheet

1. P2013-12 CONCEPTUAL REVIEW OF PROPOSAL FOR A STUDENT RESIDENCE AND ASSOCIATED IMPROVEMENTS, OCCOM RIDGE ROAD IN THE "I" ZONING DISTRICT.

John Scherding and Woody Eckels, of Dartmouth College, presented the informal proposal. A map was displayed of the proposed location of the proposed three-story sorority house (immediately south of the Roth Center). Most of the 23 bedrooms will be located on the second and third floors. The first floor will have a kitchen, dining area, and a common room/living room, used for meetings. The lower level will be a social function room.

Streetscape improvements include eliminating both of the existing curb cuts along Occom Ridge, creating one new curb cut from Webster Avenue, and moving parking (approximately 70 spaces) behind the building. Landscaping plans include relocating a sand pit/volleyball court and miscellaneous plantings (around the sand pit/volleyball court, parking lot, and to fill in the gaps of the existing curb cuts). The site has drainage issues and mitigation will be addressed, which will include periodic maintenance.

Dartmouth has had conversations with an abutting residential neighbor and the five effected fraternities/sororities in this area. A neighborhood meeting will be held to present the project and obtain feedback.

Board Questions/Comments:

- What will the parking surface be?
 - Eckels said asphalt.
- What is the design intention of locating the handicap parking spaces in the middle of nowhere?
 - Scherding said some spaces will serve adjacent student residences and are located near the paths leading to those buildings.
- Is this replacing an existing Kappa Delta house, located elsewhere on campus?
 - Eckels said no, Kappa Delta members currently reside in Hitchcock Hall.
- What lighting exists now, and what is proposed?

- Eckels said there is currently no lighting in most of this area. Standard parking lot lighting is proposed.
- What is the construction timeline?
 - Eckels said the hope is to occupy in fall 2014.

Public Questions/Comments:

- Lisa Coyle, of Occom Ridge, asked how many bedrooms are proposed.
 - Scherding said 23 single beds, in single bedrooms.

2. PUBLIC HEARING ON SIX PROPOSED ZONING AMENDMENTS ADDRESSING AGRICULTURE, FORESTRY AND ENVIRONMENTAL RESEARCH AND EDUCATION, BUILDING HEIGHT AND SETBACK OF ACCESSORY STRUCTURES, VEHICLE TURNAROUND AREAS, KEEPING OF NON-HOUSEHOLD FARM ANIMALS, ATHLETIC SCOREBOARDS, AND PRIVATE INSTITUTIONAL UTILITIES. THE COMPLETE TEXT OF THE PROPOSALS IS AVAILABLE AT THE PLANNING AND ZONING OFFICE.

2013-06: amend Section 902 and Tables 204.7 and 204.8

Add the following definition to Section 902: *Agriculture, Forestry, and Environmental Research and Education: Research and educational activities for all age levels on topics relating to agriculture, forestry, or the environment. These activities may be conducted in the outdoors or inside a building. New buildings specifically constructed to house activities associated with agricultural, forestry, or environmental research and education activities may only be located on lots having frontage on a numbered State Highway. All area and dimensional requirements shall be as specified in the underlying zoning district.*

Add *Agriculture, Forestry, and Environmental and Research Education* to the list of uses Allowed by Special Exception in Tables 204.7 Rural Residence and 204.8 Forestry and Recreation.

ESMAY announced that this amendment was filed by petition. As such, the proposal will go on the Town Meeting Warrant unchanged. State Statute requires the Board to indicate, by notation on the Warrant, whether they approve or disapprove of the amendment.

Joanna Whitcomb and Ellen Arnold, of Dartmouth College, presented the proposed amendment to allow education and outdoor environmental forestry research on the Fullington Farm property. An overlay district was considered, but use by Special Exception seems easier. Primary and secondary education is already allowed by Special Exception in the RR district. The proposed definition of “Agriculture, Forestry, and Environmental Research and Education” will essentially allow environmental agriculture courses and research, for college and adult learners, on the property. The goal is not to have to change the Fullington Farm property to an I district designation. The amendment was proposed by petition due to timing.

Board Questions/Comments:

There was some confusion over different versions of the proposed amendment that were made available to the public, distributed to the Board, and noticed publicly. It was discovered that the Board was not in receipt of the official amendment filed with the Town by petition. Copies of the official amendment were distributed. ESMAY noted that none of the petitions indicate which amendment the petitioners signed for. The signature list submitted with this petition begins with the name “Forrest D. Fleischman”.

- “Agriculture” should be noted as “agricultural” throughout the text.
 - Arnold said she appreciates the correction, but as a petitioned amendment, it should go forward as written, so long as we all understand the purpose.

Public Questions/Comments: None

It was moved by MAYOR, seconded by DIETRICH to approve this petitioned amendment on the Warrant. There being no further discussion, **THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.**

2013-01: amend Sections 209.3(A&B) and 209.4:

209.3 Side and Rear Setback Regulations and Exceptions:

- A. No accessory structure *or roof* shall project into required side setback of 10 feet.
- B. Exceptions: A garage, carport or any accessory building, whether or not attached to the principal Structure, not exceeding **12 feet at its highest point** and **including roof overhang** not closer than (10 feet) to the side lot line. No part of which is used as a dwelling space, as well as a deck, patio, swimming pool or tennis court, may be located within the side setback, but not closer than 10 feet to the side lot line. These exceptions shall not apply to any lot within the BM, B, D, OL, or I district which adjoins a residential district.

209.4 Height Regulations and Exceptions

- A. The highest point of accessory structure ridge line shall not exceed 12 feet. The highest point on ridge line of principal residential structure shall not exceed 30 feet from the established grade at the front of the structure. The height of any building shall be measured from the average finished grade along the building front, and shall not exceed the highest ridge point specified in section 204. See also Section 209.4F. Accessory Max height 12 feet
Principal Residential Max height 30 feet

Peter Murdza presented the amendment on behalf of Bryant and Marilyn Denk, proponents. He said this neighborhood buffers the downtown and school, and has been feeling pressure from different sources over the last ten years. A proposal to expand parking on Buell Street was passed by Town Meeting despite the neighborhood residents’ concern that it was detrimental to their neighborhood. Cut-through traffic is another issue, as people drop kids off at the school and continue on to their jobs at the hospital and other places. Tree cutting has occurred on a number of lots. The neighborhood is no longer isolated from downtown, rather a number of neighborhood residents have a very nice view of Main Street. Murdza said he thinks the Denks’ effort here is to preserve the character of the neighborhood by trying to resist further encroachment and undermining.

ESMAY announced that the Board’s action is to vote whether to send this amendment forward to the Town Warrant exactly as it appears tonight, or to ask the proponents to present a revised version at a subsequent public hearing.

Board Questions/Comments:

- This proposal came about as a result of a neighborhood specific event, but if approved, it will apply to the entire town. The standard for garages is moving toward an 8’ opening due to the size of modern vehicles and use of roof-mounted luggage boxes. A 12’ height restriction may result in flat roof designed structures, which is different from this areas

existing neighborhood character. At this time, it is not appropriate to impose a 12' height for accessory structures throughout the town. This is an excellent topic for neighborhood meetings.

- Having a smaller, lower roof on an accessory structure, on a property with a very large house, will not be proportionally in sync. To have something that is enforced for one area that will affect all houses and garages needs more consideration.
- The general concept has considerable merit, but the text of the amendment does not reflect the language of the current Ordinance.

Staff Questions/Comments:

- It was noted that staff's written comments include the suggestion that this should be vetted as part of the Residential Zoning Project.
- The amendment includes inconsistencies with references to buildings and structures, measuring to a ridgeline, and measuring from a different starting point. It requires a companion amendment to change the definition of building height. This is a good start and interesting proposal but it needs work in order to fit into the Ordinance without creating conflicts.

ESMAY asked for response from the Residential Project Committee (RPC) members. She said the issue of building height is complex and should not be readily taken up in isolation or too quickly. SIM said he is sympathetic to the neighborhood's concerns but proposing this throughout town needs further understanding. GARIPAY said the RPC should discuss what can be done to keep something from becoming out of character.

Murdza said he would like time to amend the current proposal to include only the neighborhood of Hovey/Ledyard/Buell and/or address what he believes to be the neighborhood's biggest concern, providing for a balance between the size of a house versus the size of a lot. Brotman said if this were narrowed to just this neighborhood, there would have to be consensus on what the neighborhood definition is (which houses are included/excluded). Changing the text to address lot size versus house size would create a document that is really not the same as the one received before the submission deadline that is critical to a construction project recently filed. ESMAY noted that March 29th is the latest date that the Board could approve an amendment for the Town Meeting Warrant. GARIPAY said she has a great deal of empathy for this but if we are going to revise it, we should do it well or not at all.

Public Questions/Comments:

- Louis Kazal said the loss of the trees mentioned earlier has really changed the character of the neighborhood. He questioned the requirement that a house be rebuilt on an existing footprint.
- Another neighborhood resident said he supports the proposed changes. He questioned whether the height of principal buildings could be factored into the amendment.
- It was noted that a maximum height of 30' is proposed for principal buildings.

Smith advised that revisions would have to be finalized the following day in order to meeting statutory notice regulations.

It was moved by SIM, seconded by MAYOR, that the Board does not send forth to Town Meeting the proposed amendment to Section 209.3B so no part of an accessory

building exceeds 12' at its highest point and no part of an accessory building is located closer than 10' on the side lot line and amend Section 209.4 so that the building height is measured to its highest point such that accessory structures do not exceed 12' and principal residential structures do not exceed 30'. There being no further discussion, THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

2013-03: amend Section 210.1A to include a new second paragraph:

A. Driveways:

... a maximum distance of thirty (30) feet.

A turn-around/backup area, not to exceed 20' x 20', designed specifically to permit safe existing from a garage into the street in a forward position shall be allowed wholly or partially in a front yard setback area. The turn-around shall be screened from the street with a minimum 4' high planting.

A portion of an approved ...”

Bernie Benn, proponent, was not in attendance. ESMAY said the only change to this amendment since the Board's previous review is the deletion of the sentences referencing use of a turn-around area for parking.

Board Questions/Comments:

- A suggestion was made to change “existing” to exiting.
- This is another case where there is tension between aesthetics or neighborhood character and safety. This too should be determined through the neighborhood meeting process.
- It was noted that staff's written comment is that there is already opportunity for a Special Exception to allow turn-around areas.
- The general concept has considerable merit but the text of the amendment does not reflect the language of the current Ordinance.
- If this occurred on even half the properties in ESMAY's part of town, it would change the character profoundly.

Public Questions/Comments:

- Carolyn Radisch, of 7 Sargent Street, said the amendment is a very bad idea and is not necessary. She said she does not think the Board would want to allow by right, across the board, people to be able to turn their front yards into parking lots. Hanover is already so restrictive about driveways. In-town lots are narrow. A 20'x20' turn-around area is a huge deal. With respect to this being a matter of safety, there is a big difference between backing out onto Main or East Wheelock Streets versus Downing or Sargent Streets. Radisch recommended the Town purchase The Smart Growth Manual which has lots of general guidance about building walkable neighborhoods and putting cars behind buildings as opposed to up against streets.
- Robin Nuse, of Sargent Street, said she was in agreement with Radisch and cautioned that this would be like opening up Pandora 's Box.
- Joanna Whitcomb concurred.

It was moved by CARTER, seconded by MAYOR, to not move this forward. There being no further discussion, THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

2013-02: amend Section 210.1C:Gardens and Animals:

Cultivating the soil, harvesting crops, and raising or keeping household animals not for gainful business. The raising or keeping of poultry, horses or other **non-household or farm animals** ~~domestic animals~~ whether or not for gainful business is permitted as an accessory use in the F Zoning District; **and in the RR Zoning District on lots with a minimum size of 3 acres. The raising or keeping of poultry on a lot less than 3 acres is allowed only by Special Exception in the RR Zoning District.** In the SR, GR and I Zoning Districts the keeping of poultry, horses, or other non-household animals as an accessory use is permitted only when not for gainful business and only by Special Exception.

ESMAY noted that this amendment was submitted by petition. The Board's action is to approve or disapprove the amendment.

Bryce Wing, proponent, and Jeanne Vieten, were present to answer questions.

Board Questions/Comments:

- What evidence does the proponent have to support the assertion that any non-household or farm animals on a lot less than three acres would cause “too great an impact on health, safety, and property values”?
 - Wing said he was without scientific evidence, but common sense would suggest it relates to impacts from smell, sight, insects, etc. There are studies about how much manure a horse produces in a day and regulations regarding the amount of manure that can be stored at one time.
- Why does this not include the SR and GR districts?
 - Wing said it was the Board's suggestion to limit it to the RR and F districts.
 - Brotman said the Special Exception requirement already applies to those districts.
- A consequence of this is to create a restriction in the RR district which does not occur in the SR district.
 - Vieten said there are a lot of mixed lot sizes in the RR. Three acres is currently the minimum lot size. The proposal is to affect a standard for the homes that already exist and to afford them the same protection that is now provided by the current three-acre minimum.
- The proposal would be stronger if it said “in any district where the lot size was less than X acres the keeping of animals would not be permitted”.
 - Wing said this seemed to be the least harmful way to get something in without impacting the entire town. Master Plan and neighborhood group discussions will go on and on. Those committees will come up with something down the road that might address this.
- This smells a bit like spot zoning, since it is being applied to a specific area to address a potential problem.
- Last year, the Board considered an amendment to allow the keeping of chickens in all districts without the need for a Special Exception if a set of very specific conditions are met. The argument in support of the amendment was that the ZBA has pretty much uniformly approved all applications for Special Exceptions to house chickens with that very specific set of conditions.

- Concern was expressed for blanket prohibition and support conveyed for allowing this use by Special Exception for lots of less than three acres.

Public Questions/Comments:

- Michelle Guiliano asked how many lots in the RR district are less than 3 acres.
 - Brotman suggested 30-40. She said the regulations previously allowed for minimum lot sizes of two acres, or slightly less. Subdivisions granted under those regulations have pretty much been fully developed.
 - Smith said additional smaller lots were created over time. It is conjecture really.
- Jim Kennedy said he was part of a group that proposed amendments to allow a flexible interpretation of agriculture and make changes in the Ordinance where there are contradictions. That group was asked by the Board to wait until the Residential Zoning Project is complete. Kennedy said he agrees that this is spot zoning in that it takes care of a particular neighborhood and perhaps a particular use. Some of the restrictions in here are going to cause instant non-conforming situations throughout the RR district. This is the wrong thing at the wrong time and flies in the face of everything we are trying to do to enable good agricultural practices in the town.
 - Vieten said if approved, this would only affect those situations going forward.
 - Kennedy said this would restrict further development of any lot that would become non-conforming as a result of this amendment.
- A male speaker asked whether the Blueberry Hill subdivision included any covenants relative to the keeping of non-household animals.
 - Wing said the current covenants are expiring, but currently allow for the keeping of 2 horses.
 - A female speaker suggested they change their covenant rather than propose a town-wide change.
- A female speaker asked, without knowing how many lots there are or will become non-conforming, how can one determine the impact of this on the people who are trying to live in this area and provide their children with the experience of being on a farm and keeping goats and a pony.

There was some confusion about whether the most recent versions of the proposed amendments were posted on the Town's website. Joanna Whitcomb accessed the website and confirmed the postings are correct. ESMAY further noted that every other form of notice, required by law, correctly cites the exact language that the petitioners signed.

It was moved by MAYOR, seconded by SIM, to disapprove this amendment, based on the fact that the Board does not have the option to table the amendment, and can only attach an approval or disapproval note to the Warrant item. CARTER asked if the Board is allowed to state that they would have approved the amendment had there been the possibility of a Special Exception. Smith said State Statue prescribes a very exact notation regarding the Board's action. She said the Board could take this amendment as their own, and revise it to allow for use by Special Exception, but that would create competing amendments. **THE BOARD VOTED FOUR (Carter, Esmay, Mayor, Sim) IN FAVOR, OF THE MOTION, ONE (Garipay) ABSTAINING. The Motion carried.**

2013-05: amend Section 317.1(E), delete Section 317.2(E), add a new Section 303, and amend Section 902 to read:

317.1(E) No flashing or animated signs with visible moving parts or intermittent lighting to create the visual effect of movement are permitted. *Animation will be permitted on athletic scoreboards subject to the restrictions stated in Section 317.6 and as permitted by the Zoning Board of Adjustment as a Special Exception under Section 206."*

~~317.2(E) Athletic scoreboards bearing the name of the home and visitor teams as well as institutional logo, team name, name of the field and the name of the field donor(s) are permitted for public or private institutions. Scoreboards shall not display commercial advertising of any type.~~

303 317.6 Athletic Scoreboards

Athletic scoreboards will be a permitted use in any district, must be located on the same lot as the athletic facility served, and are subject to review and approval by the Zoning Board of Adjustment as a Special Exception pursuant to Section 206 of the Zoning Ordinance. Athletic scoreboards may display:

- A. Information pertinent to the event and facility*
- B. Recognition of donors and sponsors by name only*
- C. Other general athletic or institutional information*
- D. Any other information customarily displayed on contemporary scoreboards, but not to include commercial advertising.*

Section 902 **Sign:**

~~Any structure or part thereof or device attached thereto or painted or represented thereon, which displays or includes any letter, word, model, banner, flag, pendant, insignia, device, or representation used as, or which is in the nature of, an announcement, direction, or advertisement. For the purposes of this Ordinance the word "sign" includes "billboard" but does not include street or traffic signs or warnings, or the flag, pennant, or insignia of any nation, group of nations, state, city, or other governmental units. For the purposes of this Ordinance, the word "sign" includes "billboard", but does not include athletic scoreboards, street or traffic signs or warnings, or the flag, pennant, or insignia of any nation, group of nations, state, city, or other governmental units.~~

ESMAY noted that this amendment was submitted by petition and is accompanied by the requisite 25 signatures, the first of which is Megan Sobel.

Ellen Arnold and Bob Ceplikas, of Dartmouth College, presented the amendment. Arnold said there are 4 components to the amendment: (1) to create a new section that deals specifically with athletic scoreboards, (2) amend the definition of sign to remove those scoreboards from the definition, (3) provide for approval by Special Exception, and (4) identify the types of information permitted on scoreboards (information pertinent to the event of facility, recognition of donors/sponsors by name only, other general athletic and institutional information that an audience might like to hear, and any other information that is customarily displayed on contemporary scoreboards but not to include commercial advertising). This will also make clear that the section of the ordinance that prohibits animation does not apply to athletic scoreboards.

Board Questions/Comments:

- Since the proposal is to remove scoreboards from Section 317, the number identifier for the new section for which they will be addressed should not reference "317".
 - Smith suggested that was a Scribner's thing that can be amended.

- The safety risk of allowing animated scoreboards and their visibility from public streets were questioned.
 - Arnold said she is not certain that absolutely every scoreboard is not, or will not be, slightly visible from a public way. She said Dartmouth assumes that is something the ZBA would specifically look at and take into account when considering a Special Exception request.
- Use of athletic scoreboards is proposed as a permitted use in any district. Are there circumstances where we might envision them being in anything other than the I district?
 - Arnold said the language was proposed out of fairness for anyone using a scoreboard.

It was moved by DIETRICH, seconded by MAYOR, to approve this petitioned amendment, with the suggested revision relative to renaming Section 317.6 to Section 330. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

2013-04: amend Section 902:

Essential Services:

The erection, construction or major alteration by public utilities, *private institutional Utilities*, or municipal or other governmental agencies of underground or overhead gas, electrical, sewer, steam, or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, and similar equipment and accessories in connection therewith, and including *municipal* buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare. *Private institutional utilities shall be subject to Public Works and Building Code review and applicable permitting.* For the purposes of this Ordinance, Essential Services shall not include the replacement of facilities (other than *municipal* buildings) or minor relocations or minor additions such as street lights, hydrants, wire, electrical transformers, fire alarm boxes or pipes.

ESMAY noted that this amendment was submitted by petition and is accompanied by the requisite 25 signatures, the first of which is Kenneth Packard.

Ellen Arnold and Frank Roberts, of Dartmouth College, presented the amendment. Arnold said the amendment has been revised since the Board's last review, in consultation with Town staff. The change makes private institutional utilities subject to Public Works and Building Code review and applicable permitting. Arnold said currently private institutional utilities are treated differently than other municipal or private utilities but yet we do the same thing. Because of the infrastructure and significance of Dartmouth's private utility system we wanted to be included in the essential services definition. The bottom line is that we would not have zoning related issues or zoning permit review.

Board Questions/Comments:

- The I district allows a Special Exception for essential services. How did it get approved in the past?
 - Brotman recalled that only the telephone company has been required to apply for Special Exception approvals for telephone services in buildings. The definition of structure is what exempted everything from ZBA approval. There is an inconsistency there, but this enables Dartmouth to be in the same exempt category as the Town.
 - Roberts said Dartmouth's past approvals have ranged all over the place. In some instances they were required to apply for Site Plan approval; in others they were not.

- The review process has been dictated by different interpretations of the work proposed. This amendment will straighten out the language and treat all utilities as a utility.
- Smith said the Zoning Administrator has not enforced the Special Exception requirement in the past and cannot start now. The Planning Board has also ruled that underground projects, that leave the surface the same as existing conditions, do not require Planning Board review.
 - By being incorporated into the definition of Essential Services, won't all projects related to essential services require Special Exception approval under Table 204.4?
 - Brotman said the definition of "structure" creates an exemption where it reads, "... For the purposes of this definition electrical transformers and the following essential services are not considered structures: underground or overhead gas, electrical, sewer, steam, or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit-cables, and similar equipment and accessories in connection therewith."
 - Smith said the question is whether there are other essential services that we would want to regulate. It seems very reasonable to be regulating AT&T or Verizon on School Street.
 - Why are Site Plan review and Special Exception approvals necessary?
 - Smith said the work may not be consistent with the character of the neighborhood, which is under the purview of the ZBA.
 - Arnold said both Boards take that into consideration.
 - The intent of the amendment makes sense but the proposed language is questionable.

It was moved by MAYOR, seconded by SIM, to approve 2013-06 as submitted by petition. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

There was a brief discussion about the zoning amendment review process, when it begins, staff's availability to assist the public with their proposals, etc. It was noted that in year's past, the Board adhered to a strict submission deadline of November 15th, which gives staff ample time to work with proponents months in advance of the required public hearings.

3. P2013-09 CONTINUATION OF SUBMISSION OF APPLICATION FOR MODIFICATION OF AN APPROVED SITE PLAN BY GILE COMMUNITY HOUSING REAL ESTATE, LLC, THE JOINT-VENTURE ENTITY OF TWIN PINES HOUSING TRUST & THE HARTLAND GROUP, FOR EXTENSION OF SITE PLAN APPROVAL OF CASE NO. P2006-05, ISSUED 01/23/2007 AND AMENDED 08/28/2007 & 06/03/2008 IN CASE NOS. P2007-17 & P2008-19. THE PROPERTY IS LOCATED AT 215 LEBANON STREET, TAX MAP 21, LOT 2, IN THE "OL" ZONING DISTRICT.

It was moved by SIM, seconded by DIETRICH, to continue P2013-09 continuation of submission of application for Modification of an Approved Site plan by Gile Community Housing Real Estate, LLC, to April 2, 2013. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

4. OTHER BUSINESS:

Dartmouth's Conceptual Review follow-up:

A member of the public, not present at the start of the meeting, asked of the purpose of a conceptual review. MAYOR said it is an effort to flush out any unexpected resistance. Smith said an applicant is under no obligation to present an identical plan, as described during conceptual review, when filing for formal Site Plan Review.

5. ADJOURN: The meeting adjourned at 10:10 PM.

Respectfully submitted,
Beth Rivard