

**PLANNING BOARD  
JANUARY 21, 2014 at 7:30 PM  
TOWN HALL, 41 SOUTH MAIN STREET**

In attendance:

**Members:** Kate Connolly, 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

**MINUTES:** The minutes of January 7, 2014 were approved.

**REVIEW OF ZONING AMENDMENTS PROPOSED FOR CONSIDERATION AT TOWN MEETING 2014** [These amendments were previously discussed at the January 7<sup>th</sup> meeting. Changes are noted in bold italics.]

ESMAY announced that the last day to accept petitioned amendments is Wednesday, February 12<sup>th</sup>. It was noted that the revised amendments, currently before the Board, are now proposed as three separate Articles.

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**Side and Rear Setbacks**

209.3 Side and Rear Setback Regulations and Exceptions:

- A. No structure shall project into any required side or rear setback.
- B. Exceptions: A garage, carport or any accessory building, whether or not attached to the principal Structure, not exceeding 15 feet in height and 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 or rear setback, but not closer than ~~7~~ **10** feet to the side or rear lot line. These exceptions shall not apply to any lot within the BM, B, D, OL, or I District which adjoins a residential district.
- C. Bus shelters and public utility structures or equipment, including, but not limited to, water and wastewater treatment and filtration plants and appurtenances thereto, which because of function cannot reasonably be located other than wholly or partially within a required setback, are permitted.

CONNOLLY said this will restore a permanent 10’ setback for all auxiliary structures that are less than 15’ in height. The current 7’ designation was put together in 1976. Since that time, safety vehicles and the like have grown in size. This is in part a safety issue and the rest is somewhat aesthetic. CONNOLLY said auxiliary structures already located within 7’ of a lot line will be grandfathered.

Board Comments/Questions:

- What applies to lots in the BM, B, D, OL, and I districts?
  - Brotman said the setback designations already established in their respective Tables in Section 204 the Ordinance.

- This is intended to apply just to GR and SR?
  - ESMAY said this will apply to every district except those listed as being exempt of the exceptions.

Public Comments/Questions:

- Natalia Streltsov, of 1 Summer Court, said there are a lot of small properties in downtown. Many buildings in her neighborhood are located right on the property lines, including her neighbor’s garage. Why now is 10’ needed? This limits the areas where she can locate a shed on her property. This will punish people who want to build and it is not fair.
  - ESMAY said the 10’ designation is based on the requirements of our first responders to emergencies. The purpose of the amendment is protection of people, not punishment.
- Streltsov suggested that a smaller setback should be okay if there are other ways for emergency vehicles to access a site.
- Diane Reinhardt, of 19 School Street, asked if Streltsov’s neighbor’s garage is torn down, would a new garage have to be 10’ from the property line.
  - Brotman said it depends. Generally speaking, if it is taken down due to structural deficiencies, and the new structure matches what was there, it would be grandfathered.
- Reinhardt asked if it is dependent upon the type of structure.
  - Brotman said yes. Residential structures are not allowed in the setback.

**It was moved by SIM, seconded by DIETRICH, to forward the proposed amendment of Section 209.3B to a February 4<sup>th</sup> public hearing. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.**

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**Building Height**

209.4 Height Regulations and Exceptions:

- A. ~~The height of any building shall be measured from the average finished grade along the building front, and~~ shall not exceed the height specified in Section 204. See also Section 209.4F.

Section 902

Building Height: Vertical distance measured from the average finished grade **along the building front** ~~at the front of the building~~ to the highest point of the roof. ~~for flat and mansard roofs, not including any parapet less than 2 feet high, and to the average height between the eaves and the ridge for other types of roofs including the upper slope of gambrel roofs.~~ See Section 209.4 for exceptions in the Institution Zone.

Building Height:

Vertical distance measured from the average ~~elevation of the proposed~~ finished grade **along the building** ~~at the front of the building~~ to the highest point of the roof. ~~for flat and mansard roofs, not including any parapet less than 2 feet high, and to the average height between the eaves and the ridge for other types of roofs including the upper slope of gambrel roofs.~~ See Section 209.4 for exceptions in the Institution Zone.

CONNOLLY said this will reinstate the old way of measuring in order to avoid heights being too high or too massive for certain neighborhoods. She advised of suggested revisions she received from SIM earlier in the day. The portions of SIM’s revisions that CONNOLLY is in favor of incorporating into this proposal include:

- (1) The creation of a new Section 209.4 G that reads, ***“The height of buildings used for residential purposes in the GR-1, GR-2 and GR-3 zones may exceed the maximum height permissible in Section 204.5 by Special Exception provided that: (1) The height of the building shall comport with the height and character of other buildings in the immediate neighborhood. (2) In a multi-family building whose utility requirements require a height exceeding the maximum height***

***permitted in Section 204.5 by Special Exception, no space in that building above the height for buildings specified in Section 204.5 shall be used for human habitation. The height of accessory structures shall be limited to the height in Section 204.5."***

CONNOLLY said it was previously stated that one of the rationales for requiring a greater height than is usually permitted is to accommodate utilities. Utilities are located between the floors of multi-family structures; adding to a structure's height. CONNOLLY said she does not want to encourage the provision of flat roofs.

Board Comments/Questions:

- This gets to the heart of the matter to allow for replacement of older structures and allow a higher density of housing.
- How will this change the primary criteria for granting a Special Exception?
  - Brotman said there are several instances in the Ordinance where there are additional criteria for Special Exceptions for a specific area. This would add another criterion for GR-1, GR-2, and GR-3.
- The "F" referenced in "See also Section 209.4F" at the end of Section 209.4A should be deleted.

Staff Comments/Questions:

- Can "comport" be replaced with something more basic and more frequently used.
    - "consistent with" was agreed to as a replacement.
  - Can we delete "in the Institution Zone" at the end of the Building Height definition?
- (2) The creation of a new Section 209.4H that reads, ***"The height of structures used for agricultural purposes, but not residential buildings, in the RR and F zones may exceed the maximum height permitted in Sections 204.7 and 204.8, respectively, to a maximum height of 45 feet by Special Exception provided that: (1) The height of the structure shall be consistent with the height and character of other structures in the same zoning district with a similar agricultural use. (2) Such accessory structures shall not be permitted within the front, side or rear setbacks."***

Board Comments/Questions:

- In the RR and F zones, where agriculture and forestry are both historical and current practice, a number of accessory buildings will exceed the proposed calculated height limits. Those buildings do set the character for those zones.
- (3) The creation of a new Section 209.4I that reads, ***"The height of accessory structures shall be limited to the height permitted in Section 204."***

Board Comments/Questions: None

Staff Comments/Questions: None

Public Comments/Questions:

- Bryant Denk said most neighborhoods have homes with two stories at heights of 27-30'. This would enable someone to seek Special Exception approval to put up a 30' box and a roof up to 45' on top of it?
  - CONNOLLY said only in the GR zones.
- Jolin Kish said Hanover Court, the Courtyard, the Howe Library, 1 North Park Street, Kendal, many of the buildings along West Wheelock Street and a number of homes in the Ledyard neighborhood as identified by George Hathorn will become non-

conforming as a result of the proposed definition amendment. She questioned whether an exception should be provided for the library. She said this is a step in the right direction but will create a lot more work due to the Special Exception requirement. Kish suggested amending the definition of “building height” to read, “***In no case shall the vertical distance between measured from the average elevation of the proposed finished grade along the front of at the front of the building to the highest point of the roof exceed 10’ beyond the allowable height for the zone in which it is located for flat and mansard roofs, not including any parapet less than 2 feet high, and to the average height between the eaves and the ridge for other types of roofs including the upper slope of gambrel roofs. See Section 209.4 for exceptions in the Institution Zone.***” She displayed diagrams of a three-story building and explained the space needed to construct it for use as a multi-family dwelling. She questioned the need to include “utility requirements” and said roof pitch will play a larger role in determining height than utilities. The same can be said of the construction of a typical garage. A two-car garage, with 10’ of clearance for a 9’ door would require a pretty shallow roof. Do we want people to get Special Exceptions every time they want to make a garage that is not almost flat? Maybe the maximum height of accessory structures should be 20’ to allow for a minimum 6:12 pitch.

- CONNOLLY said this proposal provides a way for particular buildings to have more height when it’s required. She said the utility requirement was added in response to comments made at the January 7<sup>th</sup> meeting. This does not assume that utilities will be located within the attic space.
- Brotman said building height was calculated differently when the properties Kish mentioned were constructed. If they exceed the height limits it is a measurement issue because they were supposed to be built floor to top and not with a midpoint measurement.
- Streltsov said each generation is 2.5” taller than the last. Our lifestyles are changing quite a bit. We all want to be in larger, taller, bigger, more spacious houses similar to the trend to move toward larger vehicles. It is difficult to get a Special Exception. We don’t want to have to make students live in basements.

ESMAY read the amendment as is now currently proposed:

The proposed change would affect Section 209.4 in subparagraph A to read “***the height of any building shall not exceed the height specified in Section 204. See also Section 209.4.***” And subparagraph G which reads “***the height of multi-family buildings used for residential purposes in the GR-1, GR-2 and GR-3 zones may exceed the maximum height permissible in section 204.5 by Special Exception provided that (1) the height of the building shall be consistent with the height and character of other buildings in the immediate neighborhood, (2) in a multi-family building whose utility requirements necessitate a building height exceeding the maximum height permitted in Section 204.5 as a result of the granting of a Special Exception no space in that building above the height for buildings specified in Section 204.5 shall be used for human habitation. (3) The height of accessory structures shall be limited to the height permitted in Section 204.5.***” Subparagraph H in 209.4, “***The height of structures used for agricultural purposes but not residential buildings in the RR and F zones may exceed the maximum height permitted in Sections 204.7 and 204.8 respectively to a maximum height of 45’ by special exception provided that (1) the height of the structure shall be consistent with the height and character of other structures in the same zoning district with a similar agricultural use, (2) such accessory structures shall not be permitted in the front, side or rear***

*setback.” Section 902 Building Height “Vertical distance measured from the average finished grade along the building front to the highest point of the roof. See Section 209.4 for exceptions.”*

ESMAY pointed out that the proposed changes to the definition of “building height” will affect the entire town. CARTER asked whether this would inadvertently or prematurely tie the hands of the people who are going to be designing the West Wheelock Street neighborhood. CONNOLLY said these amendments are not doing anything that would change the same abilities they have had heretofore. Smith said anyone constructing a single-family home in that area might see a problem.

**It was moved by SIM, seconded by MAYOR, to move this amendment as read by the Chair forward to a February 4<sup>th</sup> public hearing. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.**

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**GR/SR Lot Coverage**

Table 204.5

"GR" General Residence

Area and Dimensions: (all measurements in feet and inches unless otherwise stated)

District	Class*	Minimum Lot Size		Additional Family	Minimum Setbacks			Maximum Height	Building Footprint	Lot Coverage <i>ii</i>
		Area	Frontage**		Front	Side	Rear			
GR-1	1	10,000	80	5,000	30*****	15	20	35	≠ 25%	≠ 50%
	2	15,000	125	10,000	30*****	15	30	35	≠ 25%	≠ 50%
GR-2	1	10,000	80	i	20*****	10	20	35	≠ 25%	≠ 50%
GR-3	1	21,780	80	21,780	20	10	20	35	≠ 25%	≠ 50%
GR-4****	1	5,000	60	5,000	25	15	20	35***	≠ 25%	≠ 50%

- i: 3,000 square feet for second family; 2,000 square feet for each additional family.
- ii: For lots of **more than 30,000** ~~20,000~~ square feet **and GR properties fronting West Wheelock Street or South Park Street the or less**, building footprint shall not exceed ~~35~~**30**% and lot coverage shall not exceed 65%; ~~for lots of more than 20,000 square feet, building footprint shall not exceed 55% and lot coverage shall not exceed 80%.~~

- \* Explanation appears in Section 208.
- \*\* For lots on the turnaround portion of cul-de-sacs, see Section 209.1.
- \*\*\* Maximum height in the GR-4 district may be increased to 45 feet subject to the limitations stated in Section 502.3.C(3).
- \*\*\*\* For hotels in GR-4, the following area and dimensional standards shall apply instead of the above:

Minimum Lot Area:	10 acres
Minimum Frontage:	200 feet
Minimum Setbacks:	
Front:	50 feet
Side and Rear:	50 feet
Maximum Height:	35 feet
Floor Area Ratio:	0.2

\*\*\*\*\* See Section 213 West End Neighborhood Overlay District.

Table 204.6

"SR" Single Residence

Area and Dimensions: (all measurements in feet and inches unless otherwise designated)

District Class*		Minimum Lot Size		Minimum Setbacks			Maximum Height	Building Footprint	Lot Coverage
		Area	Frontage**	Front	Side	Rear			
SR-1	1	30,000	130	35***	20	50	35	<del>35</del> <b>25%</b>	<del>65</del> <b>50%</b>
	2	60,000	200	35***	30	75	35	<del>35</del> <b>25%</b>	<del>65</del> <b>50%</b>
	3	100,000	300	50***	30	75	35	<del>35</del> <b>25%</b>	<del>65</del> <b>50%</b>
SR-2	1	15,000	100	35	15	40	35	<del>35</del> <b>25%</b>	<del>65</del> <b>50%</b>
	2	20,000	125	35	20	40	35	<del>35</del> <b>25%</b>	<del>65</del> <b>50%</b>
SR-3	1	10,000	85	30***	15	20	35	<del>35</del> <b>25%</b>	<del>65</del> <b>50%</b>

\* Explanation appears in Section 208.

\*\* For lots on the turnaround portion of cul-de-sacs, see Section 209.1.

\*\*\* See Section 213 West End Neighborhood Overlay District.

209.5 Building Footprint and Lot Coverage:

~~In the RO, GR and SR Zoning Districts the percentage of the total area of a lot of record covered by a building footprint, including accessory buildings, shall not exceed 35%. Lot coverage, that is, the percentage of the total area of a lot of record covered by structures and improvements including but not limited to decks, porches without roofs, driveways, parking areas or facilities, or impervious surfaces shall not exceed 65%, except that for lots of more than 20,000 square feet in the GR Zoning District a building footprint, including accessory buildings, shall not exceed 55% and lot coverage shall not exceed 80%.~~

For Open Space Developments, Planned Residential Developments, and Continuing Care Retirement Communities, building footprint and lot coverage shall be determined by the standards in Article V.

~~Section 304 — Building Coverage, Open Porches, Carports and Garages~~

~~304.1 The portion of any structure located underground shall not be included in the calculation of lot coverage or setback.~~

~~304.2 In determining the percentage of the total area of a lot of record covered by structures and improvements, lot coverage shall include but not be limited to decks, porches without roofs, driveways, parking areas or facilities, or impervious surfaces.~~

Section 902

Lot Coverage: The ~~percentage~~ **portion** of a lot of record covered by structures and improvements including but not limited to decks, porches without roofs, **parking areas, all** driveways, **accessing** parking areas or facilities, ~~or~~ **and all other** impervious **and improved** surfaces **and constructed areas**. **"Lot Coverage" excludes the portion of any other structure located underground.**

CONNOLLY said this amendment has been revised to address the development potential for multi-family buildings. The revisions allow for increased building and lot coverage (30% and 65% respectively) for GR properties that are greater than 30,000 sf in size, or located on West Wheelock Street or South Park Street. The proposal for the remaining lots in GR and all of SR has not changed from allowable building footprint of 25% and lot coverage of 50%. CONNOLLY said the proposed restrictions are almost totally reflective of what's on the ground now and will not create any difficulties for any perfectly good proposals that might come along.

CONNOLLY mentioned the results of Brotman's building coverage research. She said of the 158 properties Brotman reviewed, less than 10% are currently non-conforming; meaning that their building coverage is already greater than 25%. Since the January 7<sup>th</sup> meeting, Brotman has researched an additional 33 properties located on West Wheelock Street, Park Street and Highland Avenue. Only six of those properties are currently non-conforming due to building coverage. Brotman also calculated how much each building footprint could be expanded on the

lots with less than 25% building coverage. CONNOLLY said the numbers are huge, particularly since they can be multiplied by three.

Board Comments/Questions:

- The proposed elimination of the first paragraph of Section 209.5 was questioned.
  - CONNOLLY said that is reflective of the desire to reduce duplicating regulations and definitions within the Ordinance.
- A typo was pointed out in the remaining text.
- SIM stated that Brotman's expanded research is not a statistical sample. It is still only reflective of in-town properties.
  - CONNOLLY said the 178 property analysis is about 7% of all of the single properties in town; a perfectly legitimate statistical analysis by any book.
- We are looking at increasing density on West Wheelock Street. Is this the time to reduce the building coverage maximum?
  - CONNOLLY said current limit of 35% is excessive.

Public Comments/Questions:

- Rob Schultz, of 19 School Street, asked why his property was mentioned specifically at the January 7<sup>th</sup> meeting as an example of what happens with lot coverage. All of the properties on the east side of School Street are significantly covered. Would they be non-conforming due to these changes?
  - CONNOLLY said 19 School Street was referenced because it is the easiest for people to look at. She said she has no idea whether the lot coverage of those properties would conform. They already do not meet the building coverage limit.
- Schultz asked if something should happen to his home, would his existing footprint be grandfathered.
  - CONNOLLY said yes. His building coverage is currently below 25%.
- Michael Liu, of 11 Maple Street, asked how his current lot coverage, which he estimated to be 60%, would be affected should something happen on his property. He said lot coverage is needed to accommodate the parking requirements for this duplex.
  - Brotman said if something happens to a property that becomes non-conforming, there is a right to rebuild within general parameters (either on the exact same footprint as the existing house or placed differently on the lot in an area that would then conform with the regulations).
- Kish suggested the proposed percentages are too tight. The development of a two-family structure is going to have issues with one or both coverage percentages. She said 2 Prospect Street was recently developed for two-family use. The building coverage went up substantially (over 30%). Yet this is an example of a project that people like. It fits into the character of the neighborhood and is aesthetically pleasing. What are we trying to accomplish? Many of the properties on West Wheelock Street will not conform with the 30% and 65% parameters. Properties on West Street that were part of the design charrette do not appear to come under the West Wheelock Street exemption. Kish said the parking requirements for a multi-family building are substantial.
  - CONNOLLY said she does not agree that a two-family home would require any more than 50% lot coverage. She said she looked at Dartmouth's Park Street development when considering these numbers. That was done very well; the coverages are below 30% and 65%. It seems to be reasonable and reflective of the character of the neighborhood.

- CONNOLLY said these provisions will temporarily maintain what is necessary for West Wheelock Street. It is pretty reflective of what's on South Park Street at the moment.
- Tim McNamara, of Dartmouth Real Estate, said the Park Street project was extraordinary because the lot is 4-acres in size. That's why coverages are so low.
- Kish asked if data is available for lot coverage stats.
    - Brotman said that information is only available for the properties that have been constructed over the last 10-12 years.
  - Reinhardt asked of the impetus for change. She said it feels like it is the desire to restrict a particular kind of building.
    - CONNOLLY said this began with a building proposal in a dense SR neighborhood that pushed the limits of the Zoning Ordinance. Most of the houses of the 178 properties reviewed have building coverage below 25%. Hanover's Master Plan says to try to maintain the character of the neighborhood. The current restrictions were established as a guess and they are very liberal. The notion is to try to bring them back to what actually exists on the ground.
    - Keri Craft, of Ledyard Lane, said discussions about preserving downtown neighborhood character have been going on since last February. The amendment proponents feel that the proposed numbers are still extremely liberal but that the only way to create compromise was to be, a little more liberal and to reflect what is on the ground.
  - Reinhardt said this sounds to be restrictive. In terms of coverage, the duplex at 19 School Street leans more proportionally toward building coverage than lot coverage. 50% lot coverage might make a lot of sense for a single-family residence, but not a duplex. There might be some inadvertent restrictions that end up affecting development the town might want.
  - Marilyn Denk, of Hovey Lane, said she supports the Master Plan goal to maintain the character of a neighborhood. She said she would prefer to see a little more restriction and allow exceptions as necessary. The Master Plan also points out the percentage of population growth in-town and out of town. In-town growth has already exceeded what the Master Plan wants. Denk said she does not know how much more density we need to put forward in this town. We need to protect green spaces.
  - Streltsov said this does not only affect residential uses; businesses are allowed in houses. From a business perspective, she needs to accommodate her patients. It is difficult to have enough parking. Why is the Board restricting parking spots?

Board/Staff Follow-up:

SIM said at this stage he cannot wholeheartedly get behind this amendment. He questioned whether the proponent has made a compelling case for the lot coverage changes. The amendment has changed from 35% to 25% to 30%. That does not feel like we've got a real good grasp of what we want to achieve here and what will achieve those numbers. CONNOLLY reiterated that these proposals are reflective of existing conditions and the product of thought and work of the group in the neighborhood. She recommends them as currently amended. GARIPAY said she is uncomfortable including the West Wheelock Street area. She said it seems like we are doing something that we should wait a bit and get a clearer picture of what's going to happen there. ESMAY suggested restoring the current lot coverage limits for that area, 35% building coverage and 65% lot coverage. CONNOLLY said she would not object to restoring 35% on the larger lots. SIM said this seems more like bargaining than basing decisions on principal. Smith said she agreed with Kish that it does not make sense to make things more



restrictive in the area of West Wheelock Street now, with the intent to correct it later. She said she would like to see a comprehensive change to allow height, coverage, footprint and parking to go forward in proportions that will work to get reinvestment in that area.

ESMAY asked for confirmation that the Board would again be asked whether to move these amendments forward to the Town Meeting Warrant over the course of the public hearings. Smith said yes. CONNOLLY suggested the Board make their intentions clear at the first public hearing to afford proponents the option to file by petition by February 12<sup>th</sup>. CARTER asked if the amendments could be further revised at the February 4<sup>th</sup> hearing. Smith said yes.

ESMAY asked what information is needed before the February 4<sup>th</sup> hearing to be better informed and comfortable with these numbers. Smith said we do not have a sense about how many properties would become non-conforming relative to lot coverage. Brotman reiterated that residents will continue to have what currently exists. Expansion plans might need to be tweaked.

**It was moved by DIETRICH, seconded by GARIPAY, to move this proposed amendment to 204.5, 204.6, 209.5, and 902 as presented by CONNOLLY and amended to increase building coverage from 30% to 35% to the February 4<sup>th</sup> public hearing.** CONNOLLY said the changes to Section 902 have not yet been discussed. CARTER asked if there are any incentives to create driveways with pervious stone. CONNOLLY said she would love to encourage it, but there is no way of doing it. ESMAY said eliminating pervious surfaces from lot coverage calculations is not the way to go. Kish asked of the definition of “improved surfaces” and “constructed areas”. ESMAY said any surface that has been disturbed and replaced by something. Brotman said this is intended to cover as much iteration without having to include an extremely long list. She said she wanted to be very clear that this is not speaking to someone’s garden but rather to something that might be under the surface or might have some natural component to it, has clearly been constructed and is being used in a certain way. **THE BOARD VOTED SIX IN FAVOR (Carter, Connolly, Dietrich, Esmay, Garipay, Mayor); ONE (Sim) OPPOSED. THE MOTION CARRIED.**

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**OTHER BUSINESS:** ESMAY advised of presentations by the NH Municipal Lawyers Association on January 30<sup>th</sup> and February 20<sup>th</sup> in Concord on Agriculture, Agritourism and Local Land Use Controls, and Takings and Exemptions and Local Land Use Controls.

**ADJOURN:** The meeting adjourned at 9:36 PM.

Respectfully submitted,  
Beth Rivard