

**PLANNING BOARD
DECEMBER 16, 2014 at 7:30 PM
TOWN HALL, 41 SOUTH MAIN STREET**

In attendance:

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

Alternates: Jon Criswell, Kelly Dent

Staff: Vicki Smith

Others: See Attendance Sheet

1. DISCUSSION OF ZONING AMENDMENTS TO BE CONSIDERED FOR TOWN MEETING 2015 [Previously discussed 11/18/2014 & 12/02/2104]

Short Name of Proposal: Continuing Care Retirement Community (CCRC)

Proponent: Rebecca Smith of Kendal at Hanover (Kendal)

David Jones of Kendal said the latest version of the proposed amendment includes the following changes:

- * Removal of any reference of a CCRC being allowed as a permitted use,
- * Addition of parking requirements for staff (one space per 1.5 employees as counted during peak shift),
- * Reduction of the definition to one sentence, relocation of the other portions to new Sections 503.5 E and 503.5F, as recommended.

Board & Staff Comments/Questions:

- CONNOLLY said it is unnecessary to state that health center units shall not be counted as dwelling units. They do not meet the definition of dwelling units. The reference to open space calculation is also unnecessary. Open space is open space.
 - Smith said the open space language is necessary to make clear that open space that has had its development rights removed cannot be counted for density purposes. Someone has already received a tax benefit for taking the value away.
 - SIM asked how conserved land was interpreted in terms of the GR-4 area and dimensions requirements.
 - Smith said the town has not made any rules to say that it would not count.
- MAYOR pointed out a few typos.
- ESMAY said there are a number of style and grammar changes proposed under the Technical Review amendment. She will send Becky a note to incorporate those changes into this proposed amendment.

It was moved by CONNOLLY, seconded by MAYOR, to take this proposal in its present form to a public hearing with the intention of putting it on the warrant for

Town Meeting. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

Put Blodgett, Kendal resident, asked to speak on this matter. He spoke favorably of requiring Special Exception review. He expressed concern for the proposed elimination of a maximum unit cap, the financial burden this will place on Kendal residents, and traffic impacts. He said some statements in the amendment are not correct such as:

- * there being sufficient acreage for additional development
 - the topography and poor soils limit the land area that can actually be developed
- * the solid demand for a well-planned modest extension
 - 111 Kendal residents have signed a petition asking that Kendal withdraw the proposal
 - adding more units will spoil the ambiance and precipitate expansion of Kendal facilities; it will be more crowded; 250 units is the ideal size
- * increasing the tax revenue for the town
 - if that's the purpose of the amendment, expansion should be allowed throughout the town

It was noted that the Board's purview of the amendment is limited to land use. Blodgett was encouraged to attend the future meetings when this amendment will again be discussed.

Short Name of Proposal: Revision of technical review of the entire zoning ordinance

Proponent: Technical Review Committee (ESMAY, CONNOLLY, Judy Brotman)

ESMAY asked how a revision of the entire Ordinance would be placed on the warrant when there are other proposed amendments that, if approved, would further revise portions of the current Ordinance. Smith said she has forwarded that question to the Town's attorneys and will follow whatever format they suggest.

ESMAY said zoning changes are needed to accommodate statements made in the 2003 Master Plan. Two different consultants were hired at two different times to assist with reorganizing the Ordinance. Neither of their efforts led to the adoption of a new ordinance; rather they became part of the record of this long-standing effort. A town-wide meeting was held in October 2012 after which the Board decided to create an internal committee to complete the technical review.

Committee members include(d): Bill Dietrich, former Planning Board and ZBA member, ESMAY, Judy Brotman, Zoning Administrator, and CONNOLLY, who filled Dietrich's seat when he left Hanover. CONNOLLY is also an alternate member of the ZBA. Rules the committee followed: *"The drafters understand that the purpose of the technical review of the Hanover Zoning Ordinance is to present to Town meeting an Ordinance in which material on a single subject is gathered together; scattering is corrected; materials are organized logically; confusing or inconsistent language is replaced with clear, concise, consistent, and readable language; and errors are corrected. It is not the purpose of the technical review to make substantive changes to the Hanover Zoning ordinance. An ambiguity or conflict is resolved in favor of established, accepted practice."* Resources they used include: NH RSA's Annotated, Chicago Manual Style

16th Edition, drafting rules published by the Massachusetts Municipal Association, a dictionary published by the American Planning Association and the December 2003 Edition of the Zoning News, also published by the American Planning Association.

The proposed revisions include:

- * Standardizing the outlined form in terms of numbering sections
- * Changing terms such as “building” versus “structure”, and “premises” versus “lot”, where they were not properly expressed
- * Gathering scattered references to the same subject into a single section; dividing discrete thoughts into sections and subsections and not cramming too much into a single section or subsection
- * Changing the tense from future to present tense
- * Changing singulars into plurals
- * Striking “shall” from the Ordinance – it should not be used in a way that it orders an inanimate object to do something

ESMAY said there are very few changes to the communications/telecommunications, wetlands, and government sections of the Ordinance. Their content and form are driven by federal or state statute.

If a Committee member felt that a proposed revision was substantive in nature, it was dropped. ESMAY flagged a number of changes she felt might be considered substantive by others and acknowledged that there could be more within the text.

ESMAY acknowledged and expressed gratitude for the efforts of staff to perform the final formatting which resulted in the document currently before the Board.

Public Comments/Questions:

- Bernie Waugh, ZBA member:
 - 1) asked whether copies of the draft ordinance are available to the public.
 - 2) expressed concern that there is no redline copy available to indicate what changes have been made; said the public needs to be able to read and understand the changes they will be asked to vote on; said having a version that the typical person can actually follow and see what’s being changed is absolutely crucial.
 - ESMAY said it would be very difficult to produce a redline version because so much has been moved around. The text of the current Ordinance was literally cut and pasted into a different order. Another committee will be appointed during this meeting to conduct a very tight review, word by word, comparing the current Ordinance to the draft.
 - 3) questioned the reasoning for renumbering the sections.
 - ESMAY said the suggestion was made to relocate the definitions, administration and enforcement sections to the front of the Ordinance, where they would be more accessible and evident to the public.
 - 4) said in his experience, providing legal services to 20-30 towns, (a) there is no question in his mind that Hanover has the best system of planning and zoning regulations and process of any of the towns he works with and (b) that the vast majority of the residents are fairly satisfied with that process.
 - Smith said a lot of people that visit the Planning & Zoning Office cannot make heads or tails of the Ordinance because it is not organized, forthcoming

or friendly. The organization done now is a huge step forward in terms of the public being able to navigate the Ordinance.

- 5) said the change should be fairly slow and incremental.
- Jeff Boffa:
- 1) thanked the Committee for their work.
 - 2) echoed Waugh’s remarks that the lack of a redline version makes it almost impossible to tell what’s been changed.
 - 3) suggested that a redlined version would be all redlined.
 - 4) asked when the public will have access to the draft and how much time they will have to review it; said without vastly more review and participation, if passed we will inevitably encounter serious problems.
 - ESMAY said it is entirely appropriate that the public be in on the process. This is too important to rush. She is not in any hurry.
 - 5) questioned whether the draft could be corrected and made to be meaningfully understood by the ZBA and general public in time for Town Meeting.
 - 6) said cutting and pasting from the current Ordinance to a new one is not what occurred; text was omitted, added, and changed.
 - 7) provided examples of problems he found within the draft including:
 - a) the elimination of the 35’ height restriction in the portions of the I zone adjacent to a residential zone
 - b) a change in wording in the Special Exception article that results in the ZBA no longer being required to impose conditions of approval to safeguard a neighborhood or otherwise serve the purposes of the Ordinance
 - c) the relocation of the standards for Special Exception; they are no longer defined as the specific standards established by the Ordinance
 - d) the lack of a definition of “garage”
 - e) allowing “garage” [a structure] as a permitted use in all districts as opposed to being an accessory structure; is there no longer any review about it being incidental or not?
 - f) conflicting rules relative to the size of garage allowed when considered in the context of lot coverage versus building floor area
 - ESMAY said the language regarding garages mimics that of the current Ordinance. You can compare them now because they have been combined into one section. She said she brought that particular matter to the Board and asked whether both statements should be left in. The Board said yes because we don’t want to make any substantive changes. ESMAY said a big reason we are doing this is so that the entire Ordinance can be more accessible to the public and readable by the public. The public can trust that when it reaches a section on garages, everything about garages is right there.
 - g) omission of language in the first sentence of Section 210
 - h) omission of language from the definition of “restaurant”; Boffa said the omitted language was specifically referenced in a recent ZBA appeal
 - 8) said the bugs should be worked out before it is present it to the public.
 - 9) said the solution is to focus on problems with the current Ordinance, not those areas that are not a problem;

- 10) echoed Waugh's remarks about people being basically happy with the way stuff is; said there will always be things that are unclear; this draft ordinance does not clarify.

Board & Staff Comments/Questions:

- CONNOLLY said it is not a revision but a reorganization of the Ordinance. Review of this may take more time than was anticipated, but let's get started.
- GARIPAY said at the start, the technical review was discussed in terms of bringing the Ordinance together with clarity and organization. We need to inform the public of the organizational and wording problems that necessitated the review.
- SIM said he is troubled that language has been omitted. We should use the wisdom of the ZBA and historical record to try to flush out the significance of any omissions. He suggested the subsequent review committee could also flag discrepancies or changes they may perceive as being substantive.
- CRISWELL said rather than assigning two or three people to go through the draft word by word, we should crowdsource it; Send it out to the public and see what they find.
 - Boffa said it is unfair to put the burden on the public to proofread proposed amendments or comment and fix components of the Zoning Ordinance.
 - CARTER said the more people that look at it from different perspectives, the richer we all will be.
- Smith credited Waugh and Boffa for reviewing the draft and suggested most people don't care enough to actually read it. She cautioned against putting this off another year. She said there is time to prepare for February and March public hearings. Smith expressed concern for public outreach. She asked why not do a few substantive changes along with the reorganization. Those things that are so blaringly impossible to live with could be proposed as separate warrant articles.
- ESMAY said the current Ordinance is infused with real problems such as:
 - 1) the definition of front setback is stated as being measured from the front property line and from the street line.
 - 2) Zoning District B-1. Why B-1? There is no B-2.
 - 3) Building characteristics along Lyme Road are referenced as to being set forth in the Hanover Site Plan regulations. They actually derived from a December 2009 newsletter sent to residents of the Lyme Road area.
 - 4) There are two definitions for "family".
 - 5) The section title "inclusive housing"; "inclusive" is not mentioned anywhere other than in the title.
 - 6) Same section, why "perpetually" affordable housing?
 - 7) The word "sawmill" is included in its definition.
 - 8) A number of definitions include regulatory information.
 - 9) The definition of "agriculture, forestry, environmental research and education" is principally regulatory.
 - 10) Signs belong in the accessory uses section.ESMAY said part of the committee's charge was to clarify, to take sentences that were obfuscating and make sense of them. To check with Zoning Administrator

what a sentence was meant to say and state it more clearly. That is very close to changing the meaning.

- CARTER said she was struck by the number of changes that have been determined by the way in which that particular matter has been historically administered by the Zoning Administrator. What burden does this place on her successor? CARTER said the town is fortunate that Judy has fulfilled this role for a long time but she does not want any of this to rest upon the skills or practices of one individual.
- Waugh said he thinks Judy does more than the Board is suggesting. She is not just making decisions off the top of her head. She is organizing cases where her interpretation has been questioned and the ZBA has made a ruling. She is able to immediately assemble cases where the ZBA has dealt with a particular issue.
- ESMAY said Judy is the officer who enforces the Ordinance. She plays a very important role and she does it superbly.

ESMAY said what she is hearing is that the public needs to see the changes side-by-side, from the current text/format to the proposed text/format, in order to make his/her own assessment of whether the Committee achieved what we set out to do. She said we need to take the time to do this right. We've been at this for ten years. She wants it done so that the Board can move on to revising the Master Plan that is now over ten years old. CONNOLLY suggested going forward with the above identified issues as separate warrant articles for Town Meeting 2015. MAYOR said both the identified trouble areas and the draft ordinance should go forward in the interest of making the improvements we started thinking about ten years ago. CRISWELL asked whether it makes sense to move forward with the simple changes, bringing them to the public in the context of these were picked up while going through the technical review process. That might make it easier to make the more broader changes we've been talking about. There was a brief discussion about whether changes identified as substantive changes should be removed from the draft ordinance, the text reverted back to that of the current ordinance, and the changes presented as separate warrant articles.

ESMAY advised of a commentary she drafted that outlines every section of the proposed amendment, where it came from and why a change was made. It is available to everyone. Smith said review packages could be made available that will include the reorganized draft, the cut/paste version and the current Ordinance. Smith said public hearings are pegged for February 3rd or 10th and March 3rd and 10th, depending on the number of new cases that need to be heard on the first Tuesdays of the months. A third public hearing could be held after that.

CARTER, DENT, EDWARDS and SIM volunteered to do the subsequent review of the draft and current ordinances. ZBA members will be asked to conduct a portion of the review as well. ESMAY asked that a list of differences between current and new be provided by January 13th for discussion before the first public hearing.

ESMAY said the current ordinance has stood the test of time. It just loses something in its internal conflicts and its poor organization. It deserves better organization; the best we can give it, to make it easier to use but not to diminish it in any way.

2. OTHER BUSINESS: None

3. ADJOURN: The meeting adjourned at 10:29 PM.

Respectfully submitted,

Beth Rivard