

**PLANNINGBOARD JULY 14, 2015 at 7:30 PM  
TOWN HALL, 41 SOUTH MAIN STREET**

In attendance:

**Members:** Kate Connolly, Judith Esmay (Chair), Iain Sim; Nancy Carter (Selectmen's Representative)

**Alternates:** Kelly Dent, Brian Edwards

**Staff:** Vicki Smith

Others: See Attendance Sheet

**1. CONTINUATION OF REVIEW OF RE-ORGANIZED ZONING ORDINANCE**

**[EDITORIAL NOTE:** There are several places within this text where it states *“There was no statement relative to the Board’s decision on these changes.”* At the August 11<sup>th</sup> hearing, ESMAY clarified that when the Board did not make a formal statement they were simply deciding to let the proposal run.]

Continued review of the CARTER/DENT comparison of the existing Zoning Ordinance and the proposed Ordinance. A chart of their line by line, word by word comparison also identifies substantive changes.

Public Comments/Questions: None

[605 Manufactured Housing Subdivision Standards of the existing Ordinance] 605.2: Issuance of Zoning Permit

- This language does not appear to be in the proposed Ordinance.
  - ESMAY said the Manufactured Housing Subdivision section was moved to Article IX Article IX Self-contained Residential Developments to be grouped with Open Space Development, PRD, and CCRC. This language is located at the start of that Article.

**701 Accessory uses** / [210 Accessory Uses of the existing Ordinance]

701.4

- “GP” was added to the list of zoning districts.
  - ESMAY said this was looked over when the “GP” district was created. It is 100% residential on Goose Pond. **[The Board agreed this is a substantive change.]**

701.5

- It was suggested to delete “702 Accessory dwelling unit”.
- There was no statement relative to the Board’s decision on these changes. **[See Editorial Note on above; The Board agreed to correct the typo.]**

**702 Accessory dwelling unit** / [210.1L of the existing Ordinance] 702.A

- It was suggested to insert “... dwelling unit may **be** located...”
- There was no statement relative to the Board’s decision on this change. **[See Editorial Note on Pg 1; The Board agreed to implement the language.]**

### **705 Garages and parking**

In general, this section is very confusing

705.1 & 705.2 [210.1B(3) Off-Street Parking & 210.4 Accessory Uses of the existing Ordinance]

- It was suggested to add "... is permitted as an accessory..."
- "building" was replaced with "structure"
  - CONNOLLY said one of the blanket changes is to change "building" to "structure" throughout the text.
  - There was a lengthy discussion about the difference between a garage, carport, tent structure used to store vehicles, asphalt parking lot, etc., what defines a garage, and what is stored within one.
  - Smith said there should not be a blanket replacement. Each change should be judged individually.
- It was suggested to change "building" to "garage" in this section, to change "the principle building ~~thereon~~ *on the lot*", and to clean up garage calculations at a later date.
- The Table of Contents of the existing Ordinance lists "Section 304 Building Coverage, Open Porches, Carports, and Garage"; The text lists "Section 304 RESERVED".
- "Carport" is not mentioned here.
  - EDWARDS said it is a more global definition of "garage".
- The Board agreed to replace "structure" with "garage" in this section and to add a definition of "garage". [The Board agreed this is a substantive change.]

### **713 Fences** / [210.1K Fences of the existing Ordinance]

- The language is a little different. The change cleans it up.
  - ESMAY said we made it clear that fences may exceed 4' in height on other places on a lot.
- There was no statement relative to the Board's decision on this change. [See Editorial Note on Pg 1; The Board agreed with the change.]

### **714 Satellite dish antenna** / [210.1M Dish Antenna of the existing Ordinance]

- It was suggested to add "Section" in front of individual numerical listings.
- There was no statement relative to the Board's decision on this change. [See Editorial Note on Pg 1; The Board agreed with the change.]

### **715 Signs** / [317 Signs of the existing Ordinance]

- The formatting is off relative to indentations. 715.1
- Language about animation and flashing was omitted.
  - ESMAY said they are associated with athletic scoreboards, which are not signs. However, they are not mentioned in the proposed Athletic scoreboards section (716).
    - 317.1E of the existing Ordinance speaks to animation being allowed on athletic scoreboards. Even though they are not signs, it was expressly permitted in the existing zoning.
    - Section 716 was written before animation and flashing were available at Dartmouth.
- The Board agreed to add the language of 317.1E back into the text. 715.2
- Putting these two pages of text into a chart is tricky to review. Multi-family dwelling or PRD and non-residential uses B and D were added. The use of "in addition" makes it confusing as to whether they are permitted in different places. 317.2A talks about signs/advertising devices permitted in various districts, then says "in addition..." signs in

multi-family dwellings or PRD's are treated as such; 317.3 then says "In B and D Districts...". Are they permitted in the places that also say "in addition"?

- Smith said it is up to the Zoning Administrator to interpret the Ordinance.
- ESMAY said the purpose of the chart was to make this more clear. The chart columns are: use, zoning district, number of signs, type of sign, size of sign, where they must be located.
- The Board agreed to mark this as a substantive change to be clarified in the future.
- What is meant by "more than 12 sf on each of two sides" or "one square foot on one side"?
  - ESMAY said signs hanging independently can be read from both sides.
- ESMAY said this is such a tricky area, but it is key to the character of our town. This is a highly regulated area. We have not touched on the biggest change, which is to classify sign as an accessory use.
  - By making it an accessory use, will that limit the use in a way that was not limited before?
    - ESMAY said someone could argue that if a sign is an accessory use then you cannot put anything on it that would not customarily be displayed by that use. Making it an accessory use controls the content. She said she would like to know what Town counsel thinks of making signs an accessory use.
- A table title or sentence explaining what it is intended to do should be added.
- There was no statement relative to the Board's decision on these changes. [See Editorial Note on Pg 1; The Board agreed to add a title or sentence to explain the table.]

#### 715.2

- A change in wording: from "not located nearer to the street than one-half the depth of the required front setback" to "no nearer street than one-half depth of required front setback".
  - It should be "street/lot line". It is their shared boundary.
    - Often they are not a shared boundary. Not all streets are necessarily in the middle of rights-of-way. It should read "front lot line".
  - The only way to measure is from the lot line.
- DENT recapped: The Board agreed to the proposed change in CARTER/DENT chart #202 and that this is not a substantive change.

#### 715.4

- The last sentence in the Section B was omitted.
  - ESMAY said it is listed within the chart.
  - DENT said 715.4 specifically excludes the chart.
- DENT recapped: The Board agreed to put that language back.

#### **801 Existing use** / [801 Existing Use of the existing Ordinance] **801.2A**

- "A building permit authorizing the structure was issued prior to the first public hearing on a restrictive amendment to this Ordinance" does not appear in the existing Ordinance. This refers to a non-conforming structure housing a non-conforming use. It is deemed to be in existence and lawful if...
  - ESMAY said this is an important outcome of a case about when the right to pursue a use vests. It was determined that it could not vest after the first public meeting. It may have been Judy Brotman, Zoning Administrator, that suggested adding this to give people notice that there is a law that requires this. This is a substantive change, but not a change in law or practice.
  - Smith said the cut-off is when notice of the first public hearing is posted.
  - This comes from State law.

- It is not a substantive change because State law preempts, and State law says this is the case.
- DENT recapped: The Board agreed to leave it in and that it is not a substantive change.

**901 Approvals** / [501 Open Space Development of the existing Ordinance]

- The following was not found in the existing Ordinance. “B. In the event of a conflict between a standard or requirement set forth in this article and a standard or requirement set forth elsewhere in this Ordinance, the standard or requirement set forth in this article shall govern.”
  - ESMAY said she this comes from 209.5. “Manufactured Home Subdivision” should be added to the sentence.
- Does this apply to Manufactured Housing Subdivisions in the existing Ordinance?
  - ESMAY said yes, 605.3 states “(These above areas and dimension supersede those listed in Table 204.7)”.
- DENT recapped: The Board is okay with that.

**902 Open Space Development** / [501 Open Space Development of the existing Ordinance]

- The last sentence of 501.1 “These provisions are limited to SR-1, SR-2, and RR Zoning Districts” cannot be found in the proposed Ordinance.
  - SIM said that is because Open Space Developments are only allowed in those districts.
- DENT recapped: Sounds good then; not a substantive change.

**903 Planned Residential Development** / [502 Planned Residential Development of the existing Ordinance]

**903.2B & 903.4B**

- It was suggested to remove mention of the RR district; PRD’s are not allowed in RR.
- Why do we allow PRD’s in the OL district?
  - CONNOLLY said it is because of the Gile Hill development. The only way it exists is because it was financed on what was town-owned land.
- DENT recapped: The Board agreed RR should be removed.

**903.3**

- Typo: “once” should be changed to “one”.
- DENT recapped: The Board is okay with that.

**905 Manufactured Housing Subdivision** / [604 Manufactured Housing Subdivision of the existing Ordinance]

**905**

- The language of 605.2 of the existing Ordinance regarding issuance of a Zoning Permit was not carried over.
  - EDWARDS said it is located in 901A.
- DENT recapped: Sounds good, this is not a substantive change. **905.3C**
- Reference to the RR district and “(These above areas and dimensions supersede those listed in...)” were omitted.
  - ESMAY said that is more closely related to the exercise of reorganizing the Ordinance. It is not changing terms but simplifying things.
- There was no statement relative to the Board’s decision on this change. **[See Editorial Note on Pg 1; The Board agreed the changes were okay.]**

905.3D

- “adjoining” was changed to “abutting”
  - ESMAY said we tended to favor the word “abutting” over any other when describing when two properties touch. To stick with standard nomenclature.
- There was no statement relative to the Board’s decision on this change. [See Editorial Note on Pg 1; The Board agreed the changes were okay.]

A running list of substantive changes and items the Board would like to revisit was provided to the Board.

Public Comment:

- Jon Dawson said he was not aware that this was happening before last week. His duty is to listen for any changes that might affect Kendal at Hanover.

Board/staff follow-up:

The Board discussed what is a “votable change” versus what is a matter of correction, how the changes should be presented in the form of a vote (as a whole, separating out substantive changes, presenting each substantive change individually, etc.) and how to get this information out to the public. SIM said there is a difference between those that attend public hearings and those that vote during Town Meeting. ESMAY said the voters would be insulted to have to vote on 24-39 individual articles about use of language. CARTER said we want to create enough of an education effort so that the things that we think are important get voted in the affirmative.

Dawson suggested it would be a waste of money to mass produce the proposed Ordinance and distribute it town-wide. He suggested making it available on the Town’s website. Paper copies could be made available to those that cannot access the website.

ESMAY summed up that the Board is in agreement that this is a worthy thing to do, that the town needs a revised ordinance, and that it is incumbent upon the Board to inform the public as much as they can. The Board needs to be as transparent as possible and to be quite honest about what they are doing so that the voters know that they operate from a place of good will.

2. **OTHER BUSINESS:** Next meeting August 11. There is a conference for planners in Peterborough Town Hall on Saturday, September 26<sup>th</sup>.
3. **ADJOURN:** The meeting adjourned at 9:19 PM.

Respectfully submitted,  
Beth Rivard