

**PLANNING BOARD
JANUARY 12, 2016 at 6:30 PM
TOWN HALL, 41 SOUTH MAIN STREET**

In attendance:

Members: Kate Connolly, Jon Criswell, Kelly Dent, Judith Esmay (Chair), Michael Mayor, Iain Sim; Nancy Carter (Selectmen's Representative); **Alternate:** Brian Edwards

Staff: Vicki Smith

Others: See Attendance Sheet

1. REVIEW OF ZONING AMENDMENTS PROPOSED FOR TOWN MEETING 2016
[previously discussed 11/17/15, 12/01/15, 12/15/15, 01/05/16]

16-3 Section 317 Signs and Section 902 Term Definitions

Proponent: Judith Lee Shelnutt Brotman, Zoning Administrator

Section 317 Signs

317.1 In all districts, signs or advertising devices shall conform to the following regulations:

- A. No sign other than official street signs or traffic directions shall be erected or maintained within the street right-of-way without approval of the Board of Selectmen or the New Hampshire Department of Transportation as appropriate.
- B. No sign shall be placed in such a position as to endanger motor vehicle or pedestrian traffic or obscure or otherwise cause confusion with official street or highway signs or signals.
- C. ~~Signs shall refer only to a use or activity carried on the lot upon which they are situated.~~ **Only 'on-premises' signs are permitted.**
- D. ~~except that~~The Board of Adjustment may grant permission as a Special Exception for *the* erection, ~~off the premises,~~ of a limited number of **off-premises** signs, providing the following conditions ~~are~~ **is** met: ~~Each sign may not exceeding~~ two square feet in area on each of two sides. ~~(1) Intended solely to give directional information.~~
- E. Signs may be illuminated only by continuous indirect white light. Such indirect lighting may include an opaque, reverse channel back-lit halo-type lamp. Any sign whose face, or any portion thereof, is illuminated from within regardless of accompanying refracting or diffusing devices, whether attached to a building, freestanding, or placed upon an awning, will be considered directly lit and not permitted. The light sources shall be so placed that they will not constitute a hazard to street or highway driving by glare.
- F. 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 330 and as permitted by the Zoning Board of Adjustment as a Special Exception under Section 206.
- G. No sign shall project more than six inches above the roof or parapet line of a building, nor more than sixteen inches out from the wall to which it is attached. Signs which project more than four inches out from the building shall be no less than 8'-6" above the finished grade in front of the building below the sign.
- H. Signs shall be constructed of durable materials and shall be maintained in good condition and repair.
- I. The above regulations shall not apply to non-illuminated signs and window posters that are displayed from within a building.
- J. Posting of land shall conform to state law.
- K. Signs on awnings are limited to ~~either the name of the enterprise with~~ a maximum of eight-inch high letters, or ~~the logo of the enterprise~~ **a graphic** with a maximum dimension of twelve inches.
- L. The restrictions of this section shall not apply to ordinary directory panels and information signs

maintained within a building or not intended for view from outside the property.

317.2 In NP, F, **GP**, RR, RO, SR, GR and I districts, signs or advertising devices ~~pertaining to the use of the premises on which they are placed~~ are permitted only as follows:

- A. One sign, displaying the street number ~~and name of the occupant of a dwelling~~ not exceeding one square foot in area on each of two sides. ~~Such sign may identify an accessory professional office.~~
- B. ~~In addition,~~ **A commercial use** in the RO, GR, and RR districts **may display** a sign ~~for multi-family dwellings or PRD's shall be~~ **that is** no more than 12 square feet on each of two sides and not located nearer to the street than one-half the depth of the required front setback. ~~A property containing professional offices or other non-residential uses in the RO district may display one sign which shall identify such uses, not be larger than 12 square feet on each of two sides, and not be located nearer to the street than one-half the depth of the required front setback.~~
- ~~C. One bulletin or announcement board or identification sign for a permitted non-residential building or use, or for a lawful non-conforming building use, not exceeding twelve square feet in area on each of two sides and not located nearer to the street lot line than one-half the depth of the required front setback.~~
- C. For churches and institutional buildings not more than two ~~bulletin or announcement boards or identification~~ signs are permitted, none of which may exceed thirty square feet in area on each of two sides, nor may be located nearer to a street lot-line than one-half the depth of the required front setback.
- D. **For residential uses, not more than two temporary signs,** A "For Sale" or "For Rent" sign not exceeding four square feet in area on each of two sides and not located nearer to a street lot-line than ~~one-half of the depth of the required front setback~~ **ten feet. These signs may be erected without a zoning permit but may be installed for a period not to exceed one year after which they must be withdrawn for a minimum of ninety consecutive days before re-erection.**
- E. ~~For recreational uses, any number of directional signs, not exceeding one square foot in area on each of two sides, may be located on the lot.~~ **In addition to the signs allowed above, an unlimited number of signs, not exceeding one square foot in area on each of two sides, may be located on any lot provided only that none of the additional signs are visible neither from a public right of way nor from an abutting lot. These signs may be erected without a zoning permit.**

317.3 In B and D Districts, signs or advertising devices ~~pertaining to the use of the premises on which they are placed~~ are permitted only as follows:

- A. Any sign permitted in Section 317.2 above, or the following as an alternative:
- B. One or more signs not to exceed 25 square feet of total area per sign attached to a building and/or a permanently extended awning the sum of which shall not exceed a total area of one square foot for each foot of building frontage upon a public street or highway. The area of the sign or signs shall not exceed two hundred square feet of total area on each street upon which the building has frontage. For buildings with frontage of less than fifty feet on a public street or highway, the total area of signs for that frontage shall not exceed seventy-five square feet. For buildings with frontage greater than or equal to fifty and less than one hundred feet on a public street or highway, the total area of signs for that frontage shall not exceed one hundred square feet. The total size of signs on any building front shall not exceed that calculated using the dimensions of that building frontage. The total area of signs having more than one surface shall not exceed the limits in this paragraph.
- C. A non-illuminated directory sign, ~~bearing the name or type of business of the principal tenants,~~ **attached to the building,** provided it is located at the principal entrance or access to such rented areas and the area of such sign devoted to each ~~tenant~~ **occupant** shall not exceed 72 square inches, and the total area of such a sign does not exceed eight square feet.
- D. Each business building located 50 feet or more from the street line and having this setback in open land may display one free-standing sign, not to exceed 30 square feet on each of two sides nor to be located nearer to the street lot-line than one-half the depth of the required front setback.
- ~~E. One menu sign bearing the name and type of offering of each restaurant not to exceed six square feet in area. The sign may be attached to the restaurant building, or may be free standing, provided it is located at or near the principal entrance to the restaurant and is set back at least one foot from all Lot lines.~~
- E. One temporary sign per business, ~~not to exceed five per building.~~ The temporary sign(s) may be attached to the building or displayed on the lot containing the building in which the business is

located, ~~at or within fifteen feet of the principal entrance to the business that lot and~~ so as not to impede pedestrian or vehicular access, ~~and shall not be subject to the restrictions of Section 317.1 F.~~ Each temporary sign, such as, but not limited to, sandwich boards, banners, flags, mannequins, or other advertising devices, must be strictly pertinent to the business operated on the premises and shall be displayed only during the actual hours of that business's operation. The total area of any temporary sign shall not exceed six square feet on each of two sides. No temporary sign shall be erected without first obtaining a Zoning Permit from the Zoning Administrator as provided in Article X. Permits shall be issued for a period not to exceed one year.

- F. ~~For a business or businesses with principal entrance(s) from a private access way, the~~ placement of one sign over ~~a the~~ private access way between two buildings ~~for a business or businesses with principal entrance(s) from the private access way~~ shall be allowed, provided that the sign shall not exceed a total area of fifteen square feet for each of two sides per business and twenty square feet for each of two sides in total area. The sign shall be a minimum of 8'-6" above finished grade, except that if the access way is used by vehicles, the sign shall be a minimum of 13'-6" above finished grade.

317.4 In OL and BM districts, signs or advertising devices ~~pertaining to the use of the premises on which they are placed~~ are permitted only as follows:

- A. Any sign permitted in Section 317.3 above, or the following as an alternative:
- B. Not more than two signs not attached to a building, provided that the total area of any one side of such a sign shall not exceed 30 square feet and the area of each sign counted separately, shall not exceed 60 square feet. Any such sign or signs shall not be located nearer to a street lot-line than one-half the depth of the required front setback.

317.5 Temporary Signs for Construction Purposes: In any district, signs which exceed the limitations of Sections 317.2, 317.3, and 317.4 above, will be allowed as follows:

- A. The signs shall not exceed 12 square feet in area, ~~shall be used only incidental to construction projects, and shall refer to a use or activity occurring on the lot on which they are situated.~~
- B. It shall be a condition of the zoning permit issued for such a sign that the sign be removed at the end of the construction period of up to one year. Such permits may be renewed for one year if construction continues for that period.
- C. Such signs shall comply with Section 317.1A, B, ~~D~~, E, F and ~~GH~~ of this Ordinance.

317.6 Banners: In the "I" district, Institutional building owners are permitted, in addition to signs and banners otherwise permitted, to install banners on private property ~~related to institutional activities.~~ Banners may be affixed to standards, lamp posts, or buildings and may be posted throughout the year for up to twelve (12) weeks at a time for each installation at each location ~~or for the period of time commensurate with the term of the institutional activity reflected in the banner.~~ Not more than three banners may be posted at one time on any building façade visible from a public street. Banners shall not exceed one hundred and fifty square feet in area on each of two sides.

~~Section 902 Term Definitions~~

~~On premises: a lot together with all buildings and structures thereon.~~

~~Sign, On lot: a device conveying speech related to a belief, sentiment or activity that is occurring on the lot where the device is erected during the period of time when the device is displayed.~~

~~Sign, Off lot: A device conveying speech related to a belief, sentiment or activity that occurs on a lot other than the one on which the device is erected.~~

ESMAY said this amendment was drafted by Town counsel and the Zoning Administrator in response to a US Supreme Court decision. Smith distributed copies of Town counsel's response to SIM's proposed changes.

Board Comments/Questions:

- 317.2E should read "... none of the additional signs *is* visible..."
- By eliminating the proposed definitions, we are placing a burden on the public by not giving them clear direction.
- Will the residents be advised that the proposed text was provided by Town counsel?
- How can you say an on-premises rule is still in effect without dealing with content?

- Voting on this amendment will occur by ballot.
- The deletion of “and name of the occupant of a dwelling” in 317.2A, will create a lot of non-conformities.
- Should we strike “displaying the street number”?
- This law will work only if it is not prosecuted.
- Do we want to include “and are renewable” to 317.3E?

It was moved by CONNOLLY, seconded by CARTER, to send the amendment forward, as presented in the multi-colored document dated December 16, 2015, plus the amendment to change “are” to “is” in 317.2A, plus the amendment to add “and are renewable” to 317.3E, to a public hearing to be considered for Town Meeting. THE BOARD VOTED FIVE IN FAVOR (Mayor, Connolly, Criswell, Carter, Esmay), TWO OPPOSED (Dent, Sim). The Motion CARRIED.

16-5 Section 302 Lots in Two Zoning Districts

Proponent: Iain Sim

Section 302 Lots in Two Zoning Districts

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restrictive part of such lot shall extend not more than 30 feet (100 feet in the Rural Districts) into the more restricted part, provided the lot has frontage on a street in the less restricted district.

A new lot may be created, whether by subdivision, lot line adjustment or by merger, with land in more than one zoning district provided only that the portions of land in each zoning district within the new lot separately meet the area requirement for that zoning district, as defined in Article II, in which they reside. This applies only when part of the land used to create a new lot is located in the F, NP or RR district. The land in each district will be used only for those uses permitted, or allowed by Special Exception, for that district.

ESMAY distributed comments she prepared from language proposed by the Technical Review Committee.

Board Comments/Questions:

- Replace the proposed 2nd paragraph with “*A use on a lot in more than one zoning district must be located in the district in which that use is permitted or allowed by Special Exception and the entire lot must conform to the minimum lot area requirements established for the district in which the use is located.*”?
- Changing the Ordinance to require both portions of the lot to meet the minimum requirements of their respective districts is a substantive change.
- Are you denied use of the portion of a lot that does not meet the minimum requirements?
- Reverse the bottom paragraphs?
- The exception is when a zoning boundary is changed, creating lots in two districts. The uses can be extended into the adjoining district.
- You lose habitat when you start fragmenting the land.
- Slicing up of land is contrary to what we think we want to achieve.
- The current Ordinance talks about area requirements, not dimensions.
- At this point we need public input.
- Three solutions: (1) annexed portion must be at least the minimum lot size of the district it is located in, (2) annexed portion is not limited in size but is limited to the uses permitted in the district it is located in, (3) not allow annexation from adjoining districts.

It was moved by SIM, seconded by DENT, to send forward to a public hearing the zoning amendment, Lots in Two Districts, dated November 14, 2015 with two amendments: (1) delete “and dimension”, singularize “requirements”, (2) this applies only where part of the land used to create the new lot is located in the F, NP, or RR districts. ESMAY suggested striking “either by right or”. There being no further discussion, **THE BOARD VOTED SIX IN FAVOR** (Mayor, Sim, Dent, Carter, Esmay, Criswell), **ZERO OPPOSED. The MOTION CARRIED.**

16-06 Construction, excavation or building in the area of a known burial site or within the boundaries of a cemetery.

Proponent: Trustees of Dartmouth College and Peter Kulbacki, Hanover DPW

Add a new *Section 331 Development In and Near Cemeteries: Construction, excavation or building in or within 25 feet of the area of a known burial site or cemetery may be permitted by the Zoning Administrator, upon a show that it will*

- a. *Not encroach on a grave;*
- b. *Not render a burial site or deeded lot inaccessible;*
- c. *Not adversely affect Town services and facilities;*
- d. *Not adversely affect the character of the area where the proposed use is located; and*
- e. *Not adversely affect the highways and sidewalks and use thereof located in the area.*

In addition, approval will be withheld unless and until both the Hanover Director of Public Works and Hanover Board of selectmen have indicated in writing their satisfaction with the proposal.

ESMAY read RSA 289:3(III) , “New construction, excavation, or building in the area of a known burial site or within the boundaries of an established burial ground or cemetery shall comply with local zoning regulations concerning burial sites, burial grounds or cemeteries, whether or not such burial site or burial ground was properly recorded in the deed to the property. In the absence of such regulations, no new construction, excavation, or building shall be conducted within 25 feet of a known burial site or within 25 feet of the boundaries of an established burial ground or cemetery, whether or not such burial site or burial ground was properly recorded in the deed to the property, except when such construction, excavation, or building is necessary for the construction of an essential service, as approved by the governing body of a municipality in concurrence with the cemetery trustees, or in the case of a state highway, by the commissioner of the department of transportation in concurrence with the cemetery trustees.” She said we are bound by State statute unless we adopt regulations in the Zoning Ordinance. ESMAY distributed copies of proposed revisions she drafted which include:

~~Section 331 Development In and Near Cemeteries: Construction, excavation or building in or within 25 feet of the area of a known burial site or cemetery may be permitted by the Zoning Administrator, upon a show provided that it will~~

~~A. The proposal complies with all relevant requirements of this Ordinance;~~

~~B. The Zoning Administrator has determined that the proposed construction, excavation, or building will not:~~

- ~~1. a. Not encroach on a grave;~~
- ~~2. b. Not render a burial site or deeded lot inaccessible;~~
- ~~3. c. Not adversely affect Town services and facilities;~~
- ~~4. d. Not adversely affect the character of the area where the proposed construction, excavation, or building use is located; and~~
- ~~5. e. Not adversely affect the highways and sidewalks located in the area and uses thereof located in the area; and~~

~~C. In addition, approval will be withheld unless and until both the Hanover Director of Public Works and Hanover Board of Selectmen have each set forth indicated in writing their determination that satisfaction with the proposal- ed construction, excavation, or building will not endanger public health and safety.~~

Board Comments/Questions:

- Is C necessary?
- At what point do the DPW Director and Board of Selectmen make their determinations? What is the basis of their determinations?
- Is consideration limited to human remains?
- Is there a significant difference between the meaning of “construction” and “building”?
- What does “encroach on a grave” mean? Within 6’? Within 6’?
- Not all burial sites are clearly identified.
- The strength of the language is that it does not include dimensions; it is not value laden.
- This applies to private burial grounds as well as town-owned cemeteries.
- The endangerment of public health and safety is the overarching concern.
- Should history be a consideration in determining approval?

It was moved by SIM, seconded by MAYOR, that this go forward to a public hearing as drafted January 12, 2016. There being no further discussion, THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

2. CONTINUATION OF REVIEW OF RE-ORGANIZED ZONING ORDINANCE

[Previously reviewed 02/17/15, 03/24/15, 04/07/15, 04/28/15, 05/05/15, 05/19/15, 05/26/15, 06/09/15, 06/23/15, 07/14/15, 08/11/15, 10/20/15, 11/17/15]

The Board reviewed a list of substantive changes dated November 2, 2015.

#21 special exception use in NP - Proposed changes include, “... selective cutting of trees ~~that has been approved in writing by the County Forester or other qualified forester~~ for the purpose of assuring adequate stocking of residual growth; *and that the general plan of selective cutting, if any, has been approved in writing by the County Forester or other qualified forester.*”

- Is a plan for selective cutting required?
- It was suggested to change: “and that ~~the~~ *any* general plan...”

#30 New definition of “affordable housing” - The current proposal is to summarize the originally proposed definition and add, “*that value for Grafton County as published by HUD.*”

- This combines sale of rental and owner-occupied housing.
- Eliminating 30% is a substantive change.
- Smith will confer with Town counsel whether this is a substantive change.

#81 Neighborhood Retail Sales - The proposal is to create a new section to address this; then it is not a substantive change.

#109 & #110 Sawmill / temporary sawmill - The issues are whether a sawmill is a permanent structure affixed on land or on wheels, and defining “temporary”.

- A sawmill is a sawmill but can be used on a temporary or permanent basis.
- Could equipment being used temporarily be placed on a lot in a more permanent way?
- ESMAY will research the use tables that list sawmills and temporary sawmills.
- “Such temporary sawmill may be limited as to hours of operation and duration of use” is hugely ambiguous.

#139 & #141 Drive-In Facility, Other - The Board voted at a previous meeting to keep the language of the current Ordinance.

#164 Lot definition - The regulatory information in the current definition was relocated.

- This is a substantive change.
- [Section 504.1 of the proposed revised Ordinance] Does “subject to any area requirements” refer to the area requirements of multiple families in the GR district?
- That should reference “dimensional” requirements, not “area”.
- ESMAY will research her notes to find out where that language comes from.

#166 Frontage definition - This clarifies current practice of measuring frontage.

- Should it be “continuous” rather than “contiguous”?
- This belongs in 503.1 of the proposed revised Ordinance.
- This is not a substantive change.

#168, #169 & #170 Front setbacks - A number of items were added as exceptions to the front setback requirement.

- This is a permissive Ordinance. To omit driveways and gardens from the list of items that are allowed in the front setback is to say that you cannot have those things in the front setback.
- ESMAY will research whether produce stands are an exception.
- The reference to the West End Neighborhood Overlay district should be moved to its corresponding table.

#177 & #192 Goose Pond - The changes are to add “GP” to the noise standards section and the accessory uses section.

- These insertions were overlooked when the GP district was created.
- These are substantive changes.

#195 Garage definition - The change is to add a definition of “garage” that includes carport and temporary structure.

- ESMAY will research the APA book to find a new definition of “garage”.

201 Sign table

- This whole section is in limbo due to the pending zoning amendment.
- The version in the proposed revised Ordinance is a condensed account of the current Ordinance, organized in tables; Town counsel’s version, in the proposed zoning amendment, eliminates references to sign content.
- The language of the proposed zoning amendment should be added to the proposed revised Ordinance.
- ESMAY will revise the text of the proposed revised Ordinance and forward it to Town counsel.
- This is a substantive change.

251 Flood or Flooding definition

- This is a correction, based on FEMA definitions, that flood/flooding is caused by either

item listed in the current Ordinance, not both simultaneously.

Smith recapped the identified substantive changes as: Lot definition, the two GP proposals, and garage definition.

Follow-up on proposed non-substantive changes (typos, capitalization, etc.):

#34 “Available land area” definition - appears only in the Appendix to the current Ordinance.

- It is not included in the proposed revised Ordinance.
- The Appendix is not included in the revised Ordinance.
- Appendix A is referred to in Section 209 of the current Ordinance.
- Smith will research whether Town Meeting voted to include the Appendix into the Ordinance.

#57 Dwelling, one-family, definition

- The use and meaning of “detached” was questioned.
- Do we need a definition of “manufactured house”?
- Where does the Ordinance accommodate tiny houses?
- The Board agreed with the language: “A single residential building containing a dwelling unit designed for and *intended to be* occupied by only one family.”

7. OTHER BUSINESS

Next meeting: 01/19/2016

ESMAY encouraged Board members to look into StrongTowns.org.

8. ADJOURN: The meeting adjourned at 10:00 PM.

Respectfully submitted,
Beth Rivard