

**PLANNING BOARD
MARCH 1, 2016 at 7:30 PM
TOWN HALL, 41 SOUTH MAIN STREET**

In attendance:

Members: 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. **MINUTES:** The minutes of February 2 and 16, 2016 were approved.

2. **P2016-03: CONTINUATION OF SUBMISSION OF APPLICATION FOR SITE PLAN REVIEW UNTIL APRIL 5, 2016 AT 7:30 PM BY THE ELEAZAR WHEELOCK SOCIETY, TO CONVERT AN EXISTING MIXED-USE BUILDING TO RESIDENTIAL USE. THE PROPERTY IS LOCATED AT 4 WEST WHEELOCK STREET, TAX MAP 33, LOT 37, IN THE "D-1" ZONING DISTRICT.**

Smith said the applicant is still working on their plan.

It was moved by SIM, seconded by MAYOR, to approve continuation of submission of P2016-03 to April 5, 2016. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

3. **P2016-02: CONTINUATION OF SUBMISSION OF APPLICATION FOR SITE PLAN REVIEW UNTIL APRIL 5, 2016 AT 7:30 PM BY REBECCA SMITH, AS AGENT FOR KENDAL AT HANOVER, PROPERTY OWNER OF RECORD, TO CONSTRUCT A 33-SPACE PARKING LOT AT 80 LYME ROAD, TAX MAP 8, LOT 1, IN THE "GR-4" ZONING DISTRICT.**

Smith said the applicant is still working with their designers.

It was moved by SIM, seconded by MAYOR, to approve the request for continuation of submission of P2016-02 to April 5, 2016. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

4. **PUBLIC HEARING ON ZONING AMENDMENTS PROPOSED FOR TOWN MEETING 2016** [Previously discussed 11/17/15, 12/01/15, 12/15/15, 01/05/16, 01/12/16, 01/19/16, 02/02/16 (public hearing), 02/16/16]

Amendment 9: Amend Table 204.4 to modify building setbacks in the "I" zoning district adjoining GR-2 residential lots abutting NH Route 10A reducing the rear setback from 75 to 20 feet and reducing the side setback from 75 feet to 10 feet; and amend Table

204.4 to allow the maximum building height to be 60 feet in the "I" zoning district within 150 feet of a "GR-2" residential district abutting NH Route 10A.

Proponents Ellen Arnold and Lisa Hogarty of Dartmouth College were present. Arnold's explanation of changes made since the last hearing was inaudible on the taped recording.

Public Comments/Questions: None

Board Comments/Questions:

- Will the map be included in the Town Meeting materials?
 - Smith said it will be in the zoning amendment portion of the Town Report. It will not be on the ballot.
- The plans for modification of the West Street/Thayer Drive/West Wheelock Street intersection have not been finalized.

It was moved by CARTER, seconded by SIM, to send Amendment #9 forward to the 2016 Town Meeting Warrant. Smith said by sending this to the Warrant, it is understood that the Board supports the amendment. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

Amendment 7: In Section 902, replace the definition of "Outdoor Recreation" with a new definition and add "Structure Associated with Outdoor Recreation" to the lists of Special Exceptions in tables 204.3, 204.4, 204.7 and 204.8.

Board Comments/Questions: None

Public Comments/Questions: None

It was moved by DENT, seconded by MAYOR, to move Amendment #7 forward to the 2016 Town Meeting Warrant. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

ESMAY reported that copies of the proposed amendments and notice of the current meeting were provided to the Zoning Board members.

Amendment 1: Adopt a fully re-numbered and re-organized zoning ordinance incorporating all of the zoning amendments proposed for hearing on March 1 and listed below.

ESMAY said this started out with the approval of the Master Plan. A small committee did meticulous work to re-organize and clarify the current Zoning Ordinance, ensuring that nothing was lost or changed in substantive regard. The very few things that are arguably substantive changes were separated out and appear as Amendments 2-6. ESMAY said this is the second time the public has been invited to speak about the proposed revised ordinance following the Board's completion of its text.

Board Comments/Questions:

- Definition "dwelling, one-family"

- MAYOR said Ruth Lappin, former Zoning Board member, expressed concern about adding "...designed for and *intended to be* occupied by only one family".
 - SIM asked of the benefit of the added words and questioned enforcement.
 - ESMAY said this will enable two families to live in a dwelling that was intended for single-family use. She said during hard times, one family might move in with another. The fact that both families occupy a house does not change the basic nature of the structure. We are not trying to govern the occupancy, but trying to define the building.
 - SIM said by having more than one family, it no longer meets the definition of "dwelling, one-family". Changing the definition from how a single-family dwelling is used, to how it was intended to be used, is a substantive change.
 - Smith said independent living is what distinguishes two-family use from single-family use. Enforcement will be regulated by our definition of "family".
 - EDWARDS noted that "intended to be" does not appear in the definitions of two-family, multi-family and seasonal dwellings.
 - ESMAY said in each case, she would prefer that the definitions read, "a single residential building designed for occupation by only one family...", "... by two-families", "... by three or more families".
 - It was noted that Judy Brotman, Zoning Administrator, did not comment on the proposed change. ESMAY confirmed that Brotman was present when the change was made.
 - The Board agreed to keep "intended to be".
- Private Utilities:
- A comment about Brotman's notes to strike that it must conform with the building code was inaudible on the taped recording.

Public Comments/Questions: None (Warren Coughlin was the only member of the public in attendance.)

It was moved by DENT, seconded by MAYOR, to move Amendment #1 to the 2016 Town Meeting Warrant. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

ESMAY said that the document still requires work but is more user-friendly, which was the intent from the very beginning.

Amendment 13: Modify Section 802, Change and Expansion of Non-Conforming Use, to increase the limit of allowed expansion from 20% to 65%.(submitted by petition)

ESMAY noted that this petitioned amendment was signed by more than 25 residents of Hanover and duly submitted by the necessary deadline. This amendment will appear on the 2016 Town Meeting Warrant exactly as proposed. The only action required of the Board by RSA 675:4(3) is to approve or disapprove it. The Board's vote will be noted on the Warrant.

Warren Coughlin, Proponent, was present.

Board Comments/Questions:

- ESMAY said that allowing 20% expansion of a disallowed use is generous. It is a commonly applied rule to allow 20%.
- EDWARDS asked if information was available of the number of non-conforming uses this would apply to.
 - Smith said she was not aware of any such data.

It was moved by SIM, seconded by DENT, that the Planning Board disapprove of the petitioned amendment. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

Amendment 2: Replace the word “inclusionary” with the word “affordable” in the titles of Section 212 in the Table of Contents and the text of the Ordinance, create a separate definition for “density bonus” using the words existing in the definition of “inclusionary housing” and replace the definition of “Inclusionary Housing” with a new definition for “Affordable Housing.”

Board Comments/Questions: None

It was moved by DENT, seconded by EDWARDS, to move Amendment #2 to the 2016 Town Meeting Warrant. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

Amendment 3: Provided that amendment #1 is approved for adoption by Town Meeting, modify Section 902, definition of “lot” to read: *a parcel of land with defined boundaries and of sufficient size to meet the minimum zoning requirements for use, coverage and area.*

Board Comments/Questions: None

It was moved by DENT, seconded by EDWARDS, to send Amendment #3 to the 2016 Town Meeting Warrant. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

Amendment 4: Eliminate Appendix A and references to it in the Table of Contents and in Section 209.4 E; eliminate from Section 902 the definitions of “available land area” and “related land area”; and amend the definition of “Open Space Ratio” to read: *The ratio of the total available land area to the building footprint.*

Board Comments/Questions: None

It was moved by DENT, seconded by EDWARDS, to send Amendment #4 forward to the 2016 Town Meeting Warrant. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

Amendment 5: Amend Section 323, Noise Standards, by adding “GP” to Use District A.

Amendment 6: Amend Accessory Uses, Section 210.4, by adding “GP” to the list of districts in the first sentence.

Board Comments/Questions: None

It was moved by DENT, seconded by EDWARDS, to send Amendment #5 and Amendment #6 forward to the 2016 Town Meeting Warrant. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

Amendment 8: Amend Section 317, Signs, and Section 333, Athletic Scoreboards, to eliminate content type references to conform to the U.S. Supreme Court decision, Reed v. Town of Gilbert, and in Section 317.2, add “GP” to the list of districts.

Board Comments/Questions:

- DENT questioned the deletion of reference to “real property” in 317.2D.
 - Smith said that was rejected by Brotman.
- SIM criticized Brotman’s handling of this amendment. He said as the named proponent, she should be present to share Town counsel’s opinions. He said the Board has not had the opportunity to have their arguments heard, that their arguments have just been summarily dismissed, and that the Board does not have ownership of this amendment.
 - ESMAY said she does not feel ownership for the whole thing. She said her issues are not with the actions of the Zoning Administrator, but rather that Town counsel dictated the wording based on their reading of a really difficult Supreme Court case.
 - Smith clarified that Brotman was instructed by the Town Manager to address this in the current year. Brotman worked with Town counsel to make that happen. Smith said she has relayed all of the Board’s changes to Brotman and has also talked with Town counsel directly.
 - ESMAY said one of the difficulties with this is deciding when to follow advice of counsel and when not to.
- MAYOR pointed out a spacing error and a typo in 317.2D.
- CARTER asked of the consequence of not sending this forward to Town Meeting.
 - Smith said if it is not sent forward, the language of the current Ordinance would remain, which is not Gilbert-cleansed.

It was moved and seconded, to send Amendment #8 to the 2016 Town Meeting Warrant. Carter, Dent, Edwards and Sim voted in opposition to the motion.; ESMAY stated that the motion failed. Smith said Amendment #1 will have to be changed to incorporate any changes to this amendment. Both amendments will be discussed on March 15th.

Amendment 10: Modify Section 302 by requiring lots in the “F”, “NP”, or “RR” districts have the minimum lot area required for that zoning district.

Board Comments/Questions: None

It was moved by SIM, seconded by EDWARDS, to move Amendment #10 to the 2016 Town Meeting Warrant. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

Amendment 11: Add a new Section 331, Development in and Near Cemeteries which will allow construction, excavation or building within a known burial site or cemetery under certain circumstances.

Board Comments/Questions:

- SIM suggested changing “deeded lot” in 331B(1) to “burial plot”.
 - Smith said those are discrete ownerships in cemeteries. Peter Kulbacki, Proponent, used “deeded lot” in the original amendment proposal.
 - ESMAY suggested that the wording comes from RSA 289:3.
 - The Board agreed not to change the wording.

It was moved by DENT, seconded by EDWARDS, to move Amendment #11 to the 2016 Town Meeting Warrant. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

Amendment 12: Add to Section 209.4, Height Regulations and Exceptions, a different method for calculating height in the “GR” and “SR” zoning districts. (submitted by petition)

ESMAY noted that this was a petitioned amendment. The proponent was not in attendance.

Board Comments/Questions:

- SIM said this falls again into the pit of trying to paint too many things with the same brush, particularly with respect to GR. This would not be appropriate in GR-4. A 35’ height limit would limit three-story buildings to flat roof designs.
- DENT said that down the road, the Board should further construct our zoning around the concept of character of the neighborhood.
- Smith said in terms of sustainability for our community, we need to make it work financially. Limiting the opportunity to have additional units perpetuates that problem.

It was moved by CARTER, seconded by MAYOR, that the Planning Board disapprove Amendment #12. THE BOARD VOTED UNANIMOUSLY IN FAVOR OF THE MOTION.

5. OTHER BUSINESS:

Creare: Smith said Creare’s request for rehearing of their Zoning Board case was not approved. They are now considering how to move forward. Creare’s Planning Board application was withdrawn. When they decide to move forward, they will do so with a new application submission.

Right-To-Know Law workshop: hosted by NH Municipal Association, will be held in the Boardroom of the Hanover Town Hall, on March 10th.

Senate Bill 436 workshop: will be held in Concord on March 17th.

Climate & Health workshop: hosted by UVLSRPC, will be held on March 13th at 5:00 PM at DHMC Auditorium E.

Outreach Ad Hoc Committee: SIM recapped the Committee's efforts and future plans. ESMAY was asked to provide examples of why reorganization of the Zoning Ordinance is necessary.

Next meetings: March 15th, April 5th

6. ADJOURN: The meeting adjourned at 9:50 PM.

Respectfully submitted,
Beth Rivard