

WOLFEBORO PLANNING BOARD
January 18, 2011
MINUTES

Members Present: Kathy Barnard, Chairman, Stacie Jo Pope, Vice-Chairman, Chris Franson, Members, Fae Moore, Dave Alessandroni, Steve Buck, Alternates.

Members Absent: Chuck Storm, Selectman's Representative, Richard O'Donnell, Dave DeVries, Jennifer Haskell, Members.

Staff Present: Rob Houseman, Director of Planning & Development, Lee Ann Keathley, Secretary.

Chairman Barnard opened the meeting at 7:00 PM.

Chairman Barnard appointed Fae Moore, Alternate, to sit in for Jennifer Haskell, Member, appointed Steve Buck, Alternate, to sit in for Richard O'Donnell, Member and appointed Dave Alessandroni, Alternate, to sit in for Dave DeVries, Member.

Public Comment

None.

Public Hearings

- **Lot Frontage**

Rob Houseman reviewed the proposed changes to the definition of lot frontage, see attached.

Chairman Barnard opened the public hearing.

Randy Tetreault, Clark Road, questioned the rationale for not including shore frontage in the reconfiguration section; noting that by not including such inhibits shorefront lots.

Kathy Barnard stated the Board expressed concern for congestion along the shorefront; noting that if there is an unusual circumstance the applicant has the ability to go to the ZBA.

Randy Tetreault stated the threshold of the ZBA is different than the Planning Board and more costly. He stated he believes the proposed definition will force different configurations for lots.

Steve Buck questioned the rationale to involve the ZBA process.

Kathy Barnard stated the Board expressed concern for additional lots being created on the shorefront.

Chris Franson stated if an applicant wishes to reduce the shore frontage, the applicant would need to go to the ZBA.

Stacie Jo Pope stated it doesn't include the creation of a new lot. She stated the Board does not want to encourage nonconformity.

There being no further questions or comments, Chairman Barnard closed the public hearing.

It was moved by Chris Franson and seconded by Stacie Jo Pope to move the revised Lot Frontage definition to Town Warrant. Chris Franson, Stacie Jo Pope, Fae Moore, Dave Alessandrone, Kathy Barnard voted in favor. Steve Buck opposed.

- **Commercial Districts**

Rob Houseman reviewed the proposed changes to the following commercial districts (see attached); Pine Hill Road Development District, C1 CS (C1 Center Street), BSLBD (Bay Street Limited Business District), GD (Greater Downtown) and C2 BSPH (C2 Bay Street Pine Hill).

Chairman Barnard opened the public hearing.

Paul Kimball, resident, stated the majority of the abutters oppose the proposed commercial district change of the C2 Bay Street Pine Hill Road to the Bay Street Limited Business District because the dimensional controls are too restrictive, the permitted uses are substantially reduced, the permitted uses by Special Exception are substantially reduced and property values would be significantly reduced. He stated the proposed change goes against the Town's Master Plan and doesn't meet the goals of the 1996 or 2007 Master Plans. He stated the proposed changes consist of a "taking" and the areas should be left alone. He questioned why the previous Kelloway property is not considered commercial and feels such is spot zoning. He stated 100% of the land owners are opposed to the proposed changes. Referencing the proposed changes, he stated the following would not be allowed as a permitted use; accessory apartments, boats, trailers or campers, home occupations, theatres or printing plants, signs, multifamily dwellings, convalescent homes, assembly operations, lodging or Bed & Breakfasts, garages or filling stations, repair shops, metal shops, Laundromats & storage facilities. He noted the following would not be allowed by Special Exception; industry, boatyards, government buildings, nonprofit educational institutions, public playgrounds, public utility lines, radio or television transmissions, hospitals, cemeteries, libraries or contractor's yards.

Kathy Barnard stated Staff discussed the proposal with the EDC (Economic Development Committee) and the Chamber of Commerce Board of Directors.

Stacie Jo Pope stated the Board had numerous meetings regarding the changes.

Randy Tetreault asked whether the businesses located on the northeasterly side of Pine Hill Road could continue to operate however, could not expand.

Rob Houseman stated any existing business is considered a lawfully existing nonconforming use; noting that if the use is abandoned the use would cease after one year. He stated the Town allows up to 25% expansion with Site Plan Review and possibly ZBA approval.

Kathy Barnard stated the Master Plan is clear regarding the intrusion of commercial use in residential districts.

Rob Houseman reviewed the purpose, permitted uses and Special Exception uses of the Bay Street Limited Business District; noting that printing plants and theatres are not currently permitted. He then reviewed the C2 Greater Downtown permitted uses and Special Exception uses.

Kathy Barnard stated the Economic Base Chapter of the Master Plan speaks to consideration of designated growth areas for office and retail services and reviewed the recommendations of said chapter.

Chris Franson stated the Board reviewed the information from the Charrette as well.

Paul Kimball stated he objects to taking the C2 Greater Downtown area and converting it to the Bay Street Limited Business District. He stated he does not object to the proposed changes to Pine Hill Road. He stated the proposal is not fair to the business community of this Town or any person investing in this Town based on previous establishment of a business district expected to be left intact and not diluted into a limited business district.

Stacie Jo Pope stated the Board looked at it from a planning perspective to provide continuity in the commercial districts.

There being no further questions or comments, Chairman Barnard closed the public hearing.

Steve Buck stated there are errors in Paul Kimball's statements relating to permitted uses.

Rob Houseman stated all the businesses that exist today have limitations on the site; noting those limitations are not going away regardless of zoning changes. He stated that unless there is a proposal to expand, he does not see how the existing businesses would be affected. He stated the bank and NAPA weren't held to the same wetland standards that exist today however, Brookside Plumbing was.

Steve Buck asked if there are any properties that would become nonconforming.

Rob Houseman reviewed the permitted uses of the districts.

Chris Franson stated the Board discussed the vision of the future when the Board walked and toured the districts. She stated the Board didn't eliminate too many things except for heavy uses.

Steve Buck expressed concern regarding the letter presented to the property owners by Mr. Kimball; noting that if he was presented the letter he would have signed it as well however, many of the uses that Mr. Kimball states in the letter as not being allowed are actually permitted.

Paul Kimball stated the letter was not prepared until after the signatures were received.

Chris Franson recommended additional outreach by the Board regarding the proposed changes.

It was moved by Chris Franson and seconded by Steve Buck to move the following to Town Warrant; delete the following commercial district and revert to adjacent residential district: Article XV, Commercial District C1 Pine Hill Road and Center Street / High Street area and convert the Bay Street portion of the Commercial District C2 Bay Street Pine Hill Road and the Mill Street C2 Greater Downtown Area to Article XVII, Bay Street Limited Business District.

Discussion of the motion:

Steve Buck questioned whether the changes would be one warrant; recommending two warrants.

Rob Houseman stated there could be one or two warrants.

Chris Franson withdrew her motion. Steve Buck withdrew his second.

It was moved by Chris Franson and seconded by Steve Buck to move the following to Town Warrant; delete the following commercial district and revert to adjacent residential district: Article XV, Commercial District C1 Pine Hill Road and Center Street / High Street area. All members voted in favor. The motion passed.

It was moved by Chris Franson and seconded by Stacie Jo Pope to move the following to Town Warrant; convert the Bay Street portion of the Commercial District C2 Bay Street Pine Hill Road and the Mill Street C2 Greater Downtown Area to Article XVII, Bay Street Limited Business District. Chris Franson, Stacie Jo Pope, Dave Alessandroni, Fae Moore, Steve Buck voted in favor. Kathy Barnard opposed. The motion passed.

Action Items

Christopher A. Austin, George L. Austin, Daniel C. Austin, Richard F. Austin

Lot Merger

TM #264-14 & 15

Rob Houseman noted the lot merger would eliminate an encroachment onto an abutting lot and result in one less waterfront lot.

It was moved by Chris Franson and seconded by Stacie Jo Pope to approve the Christopher A. Austin, George L. Austin, Daniel C. Austin, Richard F. Austin Lot Merger, Tax Map # 264-14 & 15. All members voted in favor. The motion passed.

Kingswood Golf Club

Release of Financial Security

Case #200841

It was moved by Stacie Jo Pope and seconded by Chris Franson to approve the Kingswood Golf Club Partial Release of Financial Security in the amount of \$27,000.00, amount to be retained being \$52,988.15, Case #200841. All members voted in favor. The motion passed.

Scheduled Appointments

Bruce & Kathleen Higley

Boundary Line Adjustment

Agent: Randy Tetreault, Norway Plains Survey Associates, Inc.

Tax Map: 217-5 & 6

Case #201103

Rob Houseman reviewed the Planner Review for January 18, 2011 and stated the applicant proposes to reconfigure the internal boundary line in order to bring the proposed building design into compliance with the required setbacks; noting Tax Map 217-5 would decrease in acreage from 39,637 SF to 33,000 SF and Tax Map 217-6 would increase in acreage from 18,536 SF to 25,173 SF. He stated Tax Map 217-6 is considered a

nonconforming lot of record since it lacks the lot area required in the VR District. He stated the proposal eliminates the nonconformity and brings the lot into compliance. He stated the applicant has requested the following waivers; Section 174-7 subsections 4, 5 (topography) & 6 (soil type and boundaries).

Randy Tetreault stated he has the topography generated from the Town's GIS however, it is not survey based therefore, a waiver has been requested. He stated the application is exempt from Section 174.a, Tables 1A & 1B based on the municipal water and sewer connection.

It was moved by Chris Franson and seconded by Fae Moore to grant the following waivers; Section 174-7, subsections 4, 5 (topography) & 6 (soil type and boundaries). All members voted in favor. The motion passed.

It was moved by Stacie Jo Pope and seconded by Chris Franson to accept the application as complete. All members voted in favor. The motion passed.

Chairman Barnard opened the public hearing.

There being no questions or comments, Chairman Barnard closed the public hearing.

Rob Houseman reviewed the following recommended conditions of approval;

1. The following plan, as amended by the Planning Board approval, is incorporated into the approval;
Plan 1: Boundary Line Adjustment Plan, NH Route 109 – North Main Street, Wolfeboro, Carroll Co., NH for Bruce E. & Kathleen K. Higley, 217-5 and 217-6, Plan prepared by Randolph R. Tetreault, LLS, Norway Plains Survey Associates, Inc., PO Box 249, Rochester, NH 03867, Dated December 28, 2010.
2. Submittal of a Mylar plan for recording at the Carroll County Registry of Deeds.
3. Payment of all recording fees.
4. The applicant shall provide a monument certification once the boundaries are properly set.

It was moved by Chris Franson and seconded by Stacie Jo Pope to approve the Bruce E. & Kathleen K. Higley Boundary Line Adjustment application, TM #217-5 & 6. All members voted in favor. The motion passed.

Cathy Sykes

Pre-application discussion for outdoor sales

Tax Map: 218-123

Cathy Sykes stated her property is located at 116 South Main Street and is proposing a small weekly flea market on Friday mornings during the summer months (Memorial Day through Columbus Day). She stated she proposes a small vegetable stand (agricultural sales to include vegetables, fruit and pumpkins) by the corner of the fence. She stated she received a copy of the survey and drew on the map the configuration of the flea market; noting she submitted such to Terry Tavares who accepted her application. She stated she attended TRC and explained the proposal to all department heads; noting all department heads were ok with the proposal however, Rob Houseman and Audrey Cline brought up the parking issue. She stated the application was noticed in the paper and the Town cashed her check. She stated she then received a letter from Rob Houseman stating he was seeking legal counsel. She stated 5-6 days passed before she called Mr. Houseman; noting Mr. Houseman stated that she had not submitted a full Site Plan Review application and a

certified surveyor and engineered drawings is necessary to redesign the parking. She stated her property has been surveyed six times in the past several years and noted she has never been told by Mr. Houseman what he sought legal counsel on. She stated she spoke to two surveyors who informed her that the application sounded like a Minor Site Plan Review. She stated she has been trying to do her proposal for 5 years however, every time she tries to do it the rules change and change weekly.

Rob Houseman stated the issues date back to 2009; noting the chronology is outlined in the emails distributed to the Board between Ms. Sykes and himself. He stated the secretaries have an obligation to meet the deadline in the newspaper and for abutter notices; noting the secretaries are not professional staff. He stated the property is located in the C1 CBD District and Site Plan Review requires ADA compliance; noting that if the use is not formally documented, it cannot be regulated therefore, a licensed land surveyor or engineer would be required to certify ADA compliance. He stated the Site Plan Review Regulations were last updated in 2006.

Chris Franson stated the farm stand and flea market constitutes an expansion of use to the existing operation. She expressed concern for lighting and hours of operation.

Kathy Barnard stated Ms. Sykes' letter refers to 22 vendors; noting the proposal in writing should be consistent with the site plan. She stated portable toilets should be ADA accessible and such be shown on the plan. She questioned the parking issue.

Cathy Sykes stated previously there were five 8' parking spaces however, such were not the right size (9' is required) therefore, when the courtyard was constructed she decreased the parking to four 9' parking spaces. She stated the remaining space would be used for the location of the vegetable cart. She stated it is her understanding that the property is located in the C1 CBD District therefore, is exempt from parking.

Rob Houseman stated the C1 CBD District includes a provision for the exemption from providing additional parking for an expansion of use provided no parking spaces are eliminated; noting when the courtyard was built, one parking space was eliminated.

Chris Franson stated the information submitted is conflicting and requested a formal site plan.

Following further discussion, the Board requested the following issues be addressed;

- Signage
- Safety issues related to people being in the right-of-way
- Address how vendors would load / unload
- Impact to vehicle and pedestrian traffic
- Parking
- Location of portable toilets and access to such
- Lighting
- Additional information re: booths; dimensions, type of material, permanent or temporary

Cathy Sykes stated there are 20 10x10 spaces; noting the booths would be temporary structures (KD white pop up tents that fulfill State requirements). She instructed the Board to refer to the letter of intent.

Stacie Jo Pope recommended Ms. Sykes speak to the neighbors regarding the proposal.

Dry Hill Trust / Michael R. & Patricia Bowen Revocable Trust
Boundary Line Adjustment
Agent: William Doucet, Doucet Survey, Inc.
Tax Map #217-142 & 143
Case #201101

It was moved by Chris Franson and seconded by Stacie Jo Pope to continue the Dry Hill Trust / Michael R. & Patricia Bowen Revocable Trust Boundary Line Adjustment application to February 1, 2011. All members voted in favor. The motion passed.

Peter & Alison Palmer
Special Use Permit
Tax Map # 215-5, 6, 11 & 12
Case #201035

It was moved by Kathy Barnard and seconded by Chris Franson to continue the Peter & Alison Palmer Special Use Permit application to March 1, 2011. All members voted in favor. The motion passed.

It was moved by Chris Franson and seconded by Stacie Jo Pope to adjourn the January 18, 2011 Wolfeboro Planning Board meeting. All members voted in favor.

There being no further business, the meeting adjourned at 9:05 PM.

Respectfully Submitted,
Lee Ann Keathley
Lee Ann Keathley

FRONTAGE — See "lot frontage."

LOT FRONTAGE - A lot line dividing the lot from a street right-of-way.

§ 175-55. Nonconforming lots.

- A. Frontage and area requirements: Nonconforming lots are exempt from the frontage and area requirements of this Part 1.
- B. Other requirements: Nonconforming lots shall conform to any and all other provisions, standards or requirements of this Part 1.
- C. Reconfiguration of nonconforming lots.
 - (1) It shall be permissible, upon application to and approval by the Planning Board for lot line adjustment; to reconfigure or merge contiguous nonconforming lots, provided that the adjustment results in the same or fewer number of lots; or to increase the total area or frontage of a nonconforming lot by the joining of land from a contiguous conforming lot so long as the conforming lot remains conforming.
 - (2) Acreage and lot frontage of individual lots may be decreased upon a finding of the Planning Board that the overall configuration of the lots is improved.
 - (3) The Planning Board shall have the authority to determine the setbacks required for reconfigured lots, but shall not allow setbacks to be less than 30 feet for shore frontage, 30 feet for front yards, and 10 feet for side and rear yards nor require setbacks greater than 50 feet for shore frontage, 50 feet for front yards, and 25 feet for side and rear yards. In determining the setbacks required for reconfigured lots, the Planning Board shall make a finding that the required setbacks are in harmony with adjacent structures in the neighborhood, do not diminish the development potential of the preexisting lot and insure the environmental integrity of the site.

1. Delete the following commercial districts and revert to adjacent residential district:

ARTICLE XV, Commercial District C1 Pine Hill Road and Center Street/High Street Area

2. Convert the Bay Street portion of the Commercial District C2 Bay Street Pine Road and the Mill Street C2 Greater Downtown Area to ARTICLE XVII, Bay Street Limited Business District.