



TOWN OF NEW LONDON, NEW HAMPSHIRE

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PLANNING BOARD APPROVED WORK SESSION MINUTES January 28, 2014

MEMBERS PRESENT: Tom Cottrill (Chair), Jeff Hollinger (Vice-Chair), Paul Gorman (Secretary), Peter Bianchi (Board of Selectmen's Representative), Michele Holton, John Tilley, Emma Crane (Conservation Commission Representative), Bill Helm (Alternate)

MEMBERS ABSENT: Michael Doheny (Alternate), Deirdre Sheerr-Gross (Alternate)

STAFF: Lucy St. John (Planning and Zoning Administrator), Kristy Heath (Recording Secretary)

Call to Order: Chair Cottrill called the meeting to order at 7:05pm.

Meeting Discussion: Chair Cottrill noted the work session is to discuss proposed zoning amendments as suggested by Ms. St. John. Three (3) subcommittees were established at the last meeting and the Conservation Commission was asked to review several of the draft amendments related to natural resources protection. It was noted that the subcommittee meetings were duly posted.

Language for sixteen (16) draft amendments were proposed. Input and suggestions were also provided by the New London Hospital for a "retirement district", the Conservation Commission and the Water Resources Working Group (Rick Anderson and other lakes associations' participants). The draft subcommittee meeting minutes were distributed.

Each subcommittee provided an overview, including recommendations for possible amendments this year, and which should be dropped from consideration.

Building and Structures Subcommittee – Bill Helm & John Tilley

Mr. Tilley said that with nominal changes, the amendment having to do with building height could go to the ballot. Mr. Bianchi stressed that any changes they make should have an answer based on logical, factual information.

Mr. Tilley thought they should table the other three amendments (commercial building size, accessory dwelling units and special exceptions) because there were too many things they didn't know and making one change would contradict other portions of the ordinance. He was surprised to come to the realization that the whole ordinance should be re-organized with the help of working groups. This subcommittee suggested that over the next year subcommittees be established to review the whole ordinance, as it is clear that it really hasn't changed much in years, includes numerous contradictions and there is a significant need for clarification.

Sign Subcommittee – Paul Gorman & Michele Holton

Mr. Gorman said they felt if some edits were made to #6, and they reduced the number of days to not more than 14 days from the start of the event, it would be fine. The signs would need to be removed two calendar days after the event. Mr. Gorman noted that they looked at the proposed amendments to #9

(temporary signs) and thought it was acceptable. They thought signs could be placed up to “5” calendar days prior to the event, instead of 10. Mr. Gorman added that amendment #10 was fine as it stood and could be brought forward on the ballot.

Mr. Gorman commented that as the subcommittee continued to review the draft language and follow along in the text, they began to wonder about the clarity of the current language.

Mr. Gorman explained that after further review of the sign regulations, and reviewing the other proposed amendments, this subcommittee believes that there are several sections of the Ordinance which need clarification, editing and reorganization.

Conservation Commission (CC) – Streams Overlay and Wetlands Districts (Conservation Commission (Emma Crane and CC)

Emma Crane explained that Ms. St. John had presented the draft language for discussion at the Jan 15th Conservation Commission meeting. The CC commented that they would like more time to address the issues presented, and review the wetland and stream maps in more detail. They’d like to defer two of the amendments until next year, and were interested in addressing the boathouse and docks amendment this year.

Miscellaneous Amendments Subcommittee – Tom Cottrill and Peter Bianchi

Family- Definition of family. Mr. Bianchi said one way to deal with this amendment would be to define “domestic servant.”

Septic Systems. Mr. Bianchi felt the amendment about septic tanks and building permits should be tabled for a year to study how their zoning ordinance correlated with the State’s requirements.

Master Plan Reference. Mr. Bianchi said with regard to the preamble of the Master Plan, he saw no problem with changing the text so that it does not refer to a particular date, but rather states “the current master plan.”

Sanatorium. Mr. Bianchi said with regard to eliminating the term “Sanatoriums” he thought it should just be left as-is. There were no problems with it, so it wasn’t necessary to do anything.

Zoning Maps. Mr. Bianchi thought amending maps should be worked into other zoning changes being discussed. If they have an IR zone relative to the retirement homes at the hospital, they may need to change the zoning district. Right now it didn’t seem necessary.

After the subcommittees stated their findings, discussion ensued about some of the amendments.

Shoreland Overlay District, Docks & Boat Houses

Ms. St. John provided a brief overview on why this amendment is being proposed referring to the zoning ordinance language which states, “Boathouses constructed entirely over a body of water are permitted subject to required state permits and standards.” She noted that the recent “dug-in” boathouse application submitted to the State (Guimond application) would not comply with the New London Zoning Ordinance since there can be no disturbance within the first fifty feet from the shore. She explained that both the Planning Board and Conservation Commission submitted a letter to NHDES regarding the Guimond boathouse state application, noting a dug-in boathouse is not permitted in New London. Peter Bianchi also noted that the Town has solicited input from Town Counsel on the boathouse issue. Ms. St. John explained that this is not a simple issue, and that no one can be sure on how this will unfold, as the

Guimond's attorney stated at the Planning Board meeting that she believes her client can have the dug-in boathouse as the State has jurisdiction. The Town's attorney has another opinion. Ms. St. John explained the Town recently received a letter from NHDES on the Guimond boathouse application to the State, and the State is asking for more information from Mr. Guimond. She explained the zoning amendment process and noted that a building permit has not been presented to the Town at this point in time.

Mr. Bianchi referred to Attorney Bart Mayer's letter regarding dug-in boathouses and the zoning ordinance. His letter said that it was not permitted by the Town's ordinance and if the Town received an application for a dug-in boathouse, the Town would deny it. The applicant could then go to the ZBA in an effort to overturn an administrative decision. If the ZBA upholds the decision, the applicant could then go to superior court. Ms. St. John briefly explained the ZBA process regarding an administrative appeal and variances.

Chair Cottrill asked if the current "permissive" ordinance does not allow a dug-in boathouse, why change the ordinance to specify it is not allowed? Ms. St. John conveyed that the boathouse issue will likely entail further legal input and discussion as there are certainly different legal opinions on this issue.

Ms. St. John had provided the Planning Board with wording for an amendment crafted by the Conservation Commission. They did not use the words "dug-in" in their draft language. They simply stated "No new boat houses." Mr. Hollinger thought the term "dug-in" boathouses should be mentioned in the ordinance. Ms. Holton agreed and thought it would stop these kinds of requests from coming forward.

Mr. Wilson, a member of the public, said he was involved with coming up with the wording with the Conservation Commission. He said they worked very hard to simplify the wording. He noted that docks and boathouses are attached to land so there is some disturbance of the shoreline. It was written that the attachment of a dock shall be the least impacting of the shoreline as permitted by state regulations.

Ms. St. John suggested the draft language proposed by the Conservation Commission be changed, making two distinct sentences, one addressing boathouses and the other addressing docks. Chair Cottrill thought adding docks would complicate the issue when the point is to make it clearer that dug in boat houses are not allowed. He added the ordinance already says a boathouse is not allowed within the 50' and the State will not approve a boathouse over the water thus new boathouses already aren't allowed. Ms. Holton thought it would be better to separate docks from boathouses. Mr. Bianchi noted the Town has no jurisdiction over the water.

Mr. Wilson again suggested clarification by adding "no new boat houses" to the ordinance. He said the State can make special exceptions within 125' of the shoreline and could do so in the event of a hardship. He thought stating "no new boat houses" would eliminate this possibility.

Mr. Hollinger thought the Planning Board should accept the recommendation of the Conservation Commission and move forward with what had been proposed and should not separate docks and boat houses.

The Planning Board generally agreed to use the wording from the Conservation Commission.

Ms. St. John referred to the draft language she had prepared, and asked the Planning Board if they also wanted to address definitions in the ordinance which pertain to docks and boathouse. She referred to the current definition of boathouse, which refers to an accessory structure, she noted that there was no definition of accessory structure in the ordinance. She wondered if they wanted to remove the definition of "functionally dependent structure." The Board discussed revising the definition of boathouse by

removing the words, “entirely over a body of water”, and inserting “constructed over a body of water or within the first 50’ of the shoreland overlay district.”

Ms. St. John was asked to search to see if the terms “functionally dependent structure” could be found anywhere in the context of the ordinance.

Mr. Wilson also explained that the Water Resources Working Group had also suggested some “quick-fix/errors corrections and other places in the text which needed clarification, referring to Rick Anderson’s presentation to the Planning Board at the Jan 14th meeting.

Ms. St. John commented, that although some of these may be “quick fix”, there are many, and she suggested that these not be addressed this year, reflecting on the comments expressed by the other subcommittees that the whole ordinance needs to be reviewed for clarification.

Sign Regulations

On amendment #3 Mr. Gorman suggested the figure of “30 days” be reduced to “14 days.”

On amendment #4 Mr. Gorman said a banner should be removed within two calendar days after the event. They suggested the same correction for amendment #13.

Chair Cottrill thought putting up a sign 7 days prior to an event and removing it within 24 hours would be better.

Chair Cottrill noted the proposed amendment might not provide enough of a foundation from which the Selectmen would be able justify an allowance or denial a banner permit application. Noting that the amendment suggests that the Town may remove a banner, he wondered if some sort of cash deposit should be required in the event the banner becomes ripped or torn and the Town has to remove it. Mr. Bianchi didn’t think people would think highly of that large deposit when filling out a sign/banner permit at the Town Office. Ms. Holton said small organizations would likely be unable to put forth this kind of deposit.

Mr. Tilley thought people should be able to put up banners, like at the Market on the Green, and he didn’t see a problem with it.

Ms. St. John referred to the “Quick Reference” guide to sign on page 120 of the ordinance. It was noted that the table is incomplete, the size of some signs is very small, and some zoning district restrict the number of signs. She explained that she has received numerous comments about banner, event signs, and sandwich board sign and why are there so many restrictions.

Mr. Gorman said they can’t foresee every issue that will come up. They need to address banners and be reasonable but they can’t anticipate every situation; they will need to leave that up to those approving the applications.

It was decided that signs could go up 10 days prior to an event and be removed one day after. Mr. Gorman stated that the sign ordinance needs clarification and questioned the need to update the table on page 120. The Board wasn’t sure if the table was adopted in the past as an amendment.

Building Height

Mr. Tilley explained that the proposed text would need some editing and that there are other implications which warrant further discussion. Mr. Tilley said he was no longer in favor of this amendment being on the ballot. The Planning Board agreed and felt more discussion was necessary. Chair Cottrill said the

current regulations probably had much input in determining proper allowable height and measurement and the Board would benefit from more study including advice of an architect to better understand elevations needed for buildings. He thought this change could create problems for many especially the college and their plans to expand. Mr. Helm said this was an issue when the hospital was making their renovations. Peter Bianchi suggested that the reasoning for having a limit should be discussed, noting factors such as fire equipment and view. Mr. Hollinger felt it could just be re-written to clarify the definition. The Board determined this needs further discussion and to wait until next year.

Temporary Signs

Chair Cottrill said the proposed amendment should not identify specific examples such as referring to the garden tour. He also questioned the proposed size of signs of six square feet mentioned for the garden tour.

With regard to the number of days a sign can be erected, Chair Cottrill thought such signs should be placed for the day of the event. It was noted that events like house tours could last a weekend and allowing signage prior to an event might help with advertising.

Ms. St. John asked about the history of the current language, referring to sign regulations and why there are also regulations specifically for “non-profits”. Chair Cottrill said differentiating between for-profit entities and non-profits is important as there are different motives. It was decided to keep this provision within the non-profits section and change the time limit to 10 days, remove “each house/each garden,” and change the size allowed to a maximum of 3’, erected on the day of the event and taken down 24 hours after.

#10, add an item 2 c: Ms. Crane said the Garden Club has wanted recognition for years for their work around town. In the springtime they’d like to have little signs posted to give credit to the Club, and removing the signs in the fall. These would be “seasonal temporary signs.” The word “marker” would be deleted from the draft language. It was decided the signs should be a maximum of 3 square feet.

Mr. Gorman said in the subcommittee they felt it would be worthwhile for the Selectmen to send a letter to businesses and residents along Main Street and Newport Road (and to the Chamber of Commerce) reminding them of the Selectmen’s responsibility to approve signage and that there is a process in place.

Preamble Master Plan reference

#12 –Preamble, reference to the old Master Plan. Suggested language to read, “The current master plan.” Ms. St. John said she would consult with town counsel to see if this needed to be on the ballot or if they could just change it.

Discussion of Ordinance

Mr. Gorman opined the Board should address the issues of clarity in the ordinance and suggested that the Town allocate money to fund the process of refurbishing the ordinance. He thought the Board should hire a consultant to re-frame the ordinance in a way that is clear, concise and to eliminate the confusion.

Chair Cottrill agreed and wondered if a zoning ordinance could be regarded as having a certain “useful life” of say, 25-50 years. He noted that each year, amendments are proposed, accepted and added to the ordinance and at some point the ordinance may end up with too much patchwork. He asked if the Town should allocate money through the CIP process to fund the refurbishment. Ms. St. John thought the Board was very capable of making these changes, along with her assistance. Chair Cottrill disagreed and thought such a process may actually require as much time and effort as doing the Master Plan. Mr.

Gorman said not doing a refurbishing could expose the Town to lawsuit. Mr. Tilley said the ordinance is 60 years old and opined that the ordinance needs a complete review. It was asked how much a consultant for a project like this might cost. Ms. St. John gave a rough estimate of \$50,000 - \$60,000, or more.

Ms. St. John reiterated that several of the subcommittees had suggested that the work of the subcommittees continue after Town Meeting, so as to continue discussion of the proposed amendments that will be set aside for this year.

New London Hospital Retirement Community Overlay District

Chair Cottrill noted that Bill Helm had recused himself from the Board at the last Planning Board meeting so as to represent the Hospital and present its interests.

Ms. St. John referred to the draft language prepared by the hospital for a “retirement community overlay district”. She explained that the draft language was based on some of the provisions of the current PUD provision. She commented that the draft would need some work. She also noted that another approach to consider would be to define a list of new uses, such as the terms listed in the hospital draft language and include these in the uses of the current hospital district, or expand the area of the hospital district. She referred to the language in the draft # 4 permissible zone district, explaining that this would limit other retirement communities of a similar nature to only the hospital owned lands. She was asking if this was the intent or if the intent is to allow a “retirement community, or Continuing Care Retirement Community on just the land owned by the hospital or on other lands in town.

Chair Cottrill said the Institutional Recreational Zone was determined to be within a specific plot of land. They could do the same thing in this instance. Either add on to the hospital’s zone or create a new zone that follows the boundary of the property that is in the R1 zone currently.

Ms. St. John asked what specific parcels the hospital would like to include in this district. Bill Helm, acting on behalf of the Hospital, said all the parcels the hospital owns will need to be considered.

Mr. Helm further commented that the draft was prepared based on reviewing Town of Peterborough’s language and incorporating provisions of the PUD. He noted that hospital terminology, legal definition, and what hospitals can and can’t include or do, will need to be considered as the language is drafted. It was suggested they follow the outline of the PUD and apply it as a Retirement Community. Mr. Helm said “CCRC” was not the best term to use because they will not fit the legal definition of it. The Clough-Center (nursing home) doesn’t allow for it to be a CCRC because a CCRC has to include a nursing home. The Town of Peterborough got around this by calling their development a “Retirement Community.”

Mr. Helm said if the Planning Board was not going to sponsor something to allow the zoning change, the Hospital will likely have to submit the amendment by petition. Chair Cottrill asked for general consensus of the Board regarding consideration of a new zoning district as desired by the New London Hospital and all agreed to work toward a solution for this year. It was noted the Board would need to find a way that differentiates it from Hilltop and Lyon Brook developments.

Chair Cottrill said they could modify the PUD and adapt to this new zone. Ms. St. John commented that if a new zoning district is established the zoning map would need to be changed and included as an amendment.

Chair Cottrill thought someone from the hospital should be at the next meeting to respond to questions and provide input. Chair Cottrill said the plans for hospital had been discussed in year’s pasts, and that the Planning Board is generally in favor of some changes, but the details need to be worked out.

Review of Amendment Discussion

Ms. St. John was asked to revise the draft text based on the discussion this evening. She explained that in some communities, Town Counsel may be asked to review the draft zoning amendment language before it is advertised for public hearing, or sometime during the process. She asked what the Planning Board would like to do. Chair Cottrill agreed and suggested Town Counsel could or should look at the wording to help nail down the amendment language. He also urged careful consideration to the number of words in both the amendment and the rationale so as to avoid or minimize confusion.

Motion to Adjourn

**IT WAS MOVED (Paul Gorman) AND SECONDED (Emma Crane) to adjourn.
THE MOTION WAS APPROVED UNANIMOUSLY.**

The meeting adjourned at 10:00pm.

Respectfully submitted,

Kristy Heath, Recording Secretary
Town of New London