

PETERBOROUGH PLANNING BOARD
TOWN OF PETERBOROUGH
Monday, January 9, 2023
Peterborough, New Hampshire

Members Present: Andrew Dunbar, Sarah Steinberg Heller, Carl Staley, Lisa Stone and Stephanie Hurley

Also Present: Danica Melone and Laura Norton, Office of Planning & Building

Chair Hurley opened the meeting with a welcome and introduction of the Board and Staff. It was noted the meeting was being streamed live to You Tube and Local Channel 22 for viewing.

Minutes:

A motion was made/seconded (Staley/Dunbar) to approve the Minutes of December 12, 2022 with typo corrections with all in favor.

Discussion on Zoning Amendments:

The discussion began with a review of what the Board had agreed to put to ballot in previous workshops and the scheduling of a public hearing on January 23, 2023 for discussion as follows:

To rescind §245-11.1 Office District, a defunct zoning district consisting of only two lots, to be rezoned as: U019-024-000 to the General Residence District and U008-025-000 to the Family District. The Office District is obsolete and both lots within this District are currently legal nonconforming under Office District regulations; these changes would allow those lots to be conforming and have greater flexibility to expand, add, change uses or structures on their properties.

To amend the definition of “Commercial Uses” under §245-4 to include “food services such as restaurants.”

To amend Manufactured Housing Parks under §224-2B(1) by adding “or shall provide a community water and septic service.” §224 currently only allows Manufactured Housing Parks with connection to Town water & sewer. Chair Hurley noted a potential amendment to add allowable districts and asked, “did we talk about that?” Ms. Melone reminded the members about the review of the GIS map showing all of the 5+ acre lots in town. “We pulled out the conservation and constrained lots and in the end we recognized the majority of the lots were all in

the Rural District, with the few in other districts unlikely to become available. My recollection was that we just leave it as it is” she said.

Also on the agenda on the 23rd is the public hearing to rezone parcels U023-021-000 (80 Elm Street), U023-020-000 (36 Elm Street), and U023-019-000 (32 Elm Street) to be entirely Village Commercial District. Current zoning of these parcels makes their uses legal nonconforming; this change will allow for flexibility of future development while providing for a buffer where the parcels abut residential lots.

245-24.6 - Inclusionary Housing:

The discussion began with a review of the authority, purpose and applicability of the ordinance. Ms. Melone noted the importance of discussing what type of housing the Board wants encompassed into the regulation.

The members then reviewed the multiple definitions of affordable housing ranging from extremely low, very low, moderate, workforce, elderly and market rate. Ms. Melone noted the definitions of low, very low and extremely low categories as defined by the New Hampshire Housing Finance Authority and asked the members if that was something they also wanted to speak to by changing the terms in the purpose clause so that it is an overarching or umbrella term.

From the audience Carol Nelson noted the RSA referring to this does not specifically say extremely low, “it just says low and moderate” and asked, “can we go into that kind of detail?” Citing RSA 674:21(Innovative Land Use Control) Ms. Melone noted she thought they could as long as it didn’t affect the enabling legislation.

Also from the audience Dori Drachman asked what kind of a difference it would make to include the additional definitions. This prompted Ms. Melone to project a graph applicable to affordable housing incentives that guarantee a designated percentage of housing reserved for inclusionary housing may be approved for density bonuses. This graph cited housing types, minimum designated percentage of dwelling units and calculated bonus units as well as differences between owner-occupied and rental housing units.

Ms. Melone mentioned state law changes effective August 2, 2023 (House Bill 1661) where workforce housing will receive the same allowances as elderly housing, which (by right) is currently 10 units per acre. She also reminded the members, while it was disingenuous to not consider all types of housing, the focus of the discussion was what types of housing to prioritize *right now*. She went on to

say the Affordable Housing Committee was prioritizing rental housing but they are not doing that with the graphic, “in the same way we are not prioritizing low over moderate or very low over low categories but that all categories have some type of density bonus.”

A brief discussion about innovative land use controls, inclusionary zoning, developers, elderly housing and HB 1661 (as mentioned, treating workforce housing exactly like elderly housing) and what they have to do with each other followed with Ms. Melone emphasizing two incentives: (1) density bonuses where

V. **Affordable Housing Incentives.**

a. **Density Bonuses.** A site plan or subdivision plan that will guarantee a designated percentage of units reserved as inclusionary housing may be approved with an increase in the density of the site. (Table V-A, below)

Housing Type	Minimum Designated Percentage of Dwelling Units	Bonus Units
Rental housing	20%	30%
Owner-occupied housing	20%	15%
?		
?		

b. **Waivers.** The Planning Board is hereby authorized to issue Conditional Use Permits for an innovative design that would require waiver or modification of the lot and yard standards of the zoning district(s) in which the proposal is located. The Board may allow waivers or modification subject to the following:

a plan that guarantees a designated percentage of units reserved as inclusionary housing may be approved with increased density and (2) waivers where the Planning Board is authorized to issue Conditional Use Permits (CUPs) for an innovative design that

would require waiver or modification to dimensional requirements such as lot size and setbacks for greater density, “or even waiving application fees” for a more stream lined application process. “But again, right now I think we should focus on the types of housing that we want to make sure is prioritized because right now it just looks at rental and owner-occupied housing, not the affordability levels” said Ms. Melone. She went on to say the community feedback seemed to be more in favor of incentives for workforce and moderate incomes and not so much for low

income. “so should we put that in or not? That is a conversation I would like to have with this Board” she said. “But that would be exclusionary” interjected Ms. Nelson adding “and this is called inclusionary housing.” Ms. Heller suggested being very precise with the language “even if it is ad nauseam, we want this to be more than performative, I worry about that.” She went on to say that while the feedback prioritized workforce and moderate-income housing, “all types were threaded into the responses.” The members also agreed that when the conversations come up there are many different interpretations of what the housing types actually mean. Ms. Nelson offer a suggestion of a footnote of sorts for the many different types of inclusionary housing encompassed by the graph. Mr. Staley remarked he felt that if a developer is getting the same density bonus for a higher priced project “there is no way they legitimately will do the lower cost project” and noted other incentives may be necessary, “and really the only way you are going to get low-income housing here is to have it subsidized in a big way.”

Ms. Nelson interjected another incentive may be offering a streamlined application process. Ms. Melone replied the process is timely as it is, “I am not sure what other processes could make it more streamlined” she said. A brief discussion about getting complete application submittals and additional information in a timely fashion, the current 65-day rule to act on an application and legal deadlines for noticing the public and abutters followed. Ms. Heller noted that no matter what the case, “there is always someone who comes in saying they didn’t know, things were moving too fast and things were not transparent or the town is doing something sneaky. “I feel very uneasy about shortening that process we have and risking making that window of transparency shorter” she said.

Mr. Staley reiterated his idea of having zoning options for federal assistance as incentives for low-income housing and a brief discussion about federal assistance and the town’s current zoning ordinance followed. There was also a brief discussion on area median income levels, bonus percentages and researching if a developer would even be interested in it. “That would be very interesting” said Mr. Staley. He then mentioned Sharon Monahan’s letter urging the withdrawal of the workforce multi-family buildings being allowing throughout town citing old language (“as far back as 1983”) in the zoning with Ms. Heller interjecting “that is why we need an entire zoning rewrite, to discard that kind of thing.”

Ms. Stone noted that she had read the material presented and found it to be very confusing. She advocated for a better presentation. “There has got to be a better way” she said. “It is still very rough” replied Ms. Melone as she reiterated “but density bonuses and waivers are the best things we can offer developers.” A brief

discussion of potential calculation of percentages for bonus density and other ideas to make the graphic clearer followed with Ms. Melone again noting “we need to decide on what types of affordable housing we want to see plugged in here.” Ms. Heller replied “right, that is what we need to focus on.”

The members proceeded to review the graphic and discussed several potential percentage formulas for different housing scenarios. While not a member of the Board Ms. Nelson offered to assist Ms. Melone in researching and documenting examples from other towns that have inclusionary zoning. When Mr. Dunbar asked what the Board was trying to accomplish Ms. Melone replied, “the goal is to put all of the types of affordable housing into one section so they are not in different places while making it a more streamlined process where it would be possible for applicants to go before just one Board, encouraging the community goal of more development.”

Mr. Dunbar brought the owner of the land into the conversation as a factor in whether or not housing would be affordable, and Ms. Melone noted the buyer would have to decide on a conventional subdivision with its underlying zoning (density) or show interest in doing an affordable project where they could get additional density bonuses. “That allows the developer to do what they want, and we get what we need by getting the types of affordable housing that is lacking” she said.

Mr. Dunbar spoke briefly about numerous housing projects in town “that are also very expensive projects and I think they are being driven by the money the developer can make.” He asked about what currently exists in town for affordable housing with Ms. Melone noting a state statistic of about 25,000 units short with 0% vacancy. Citing several complexes in West and North Peterborough, Mr. Dunbar qualified his question by saying “not what we are *short* but what we *have*. My point is I am trying to get a point of reference by asking that.” He concluded by noting the housing crisis was a national problem and it was not solely up to Peterborough to solve it “The whole state has to solve it, the whole country has to solve it” he said.

Ms. Melone noted “I don’t think the onus is on us, I think the Board is taking the opportunity to make progress and change in a way the community wants to see the town go.” Mr. Dunbar replied, “right but encouraging it, desiring it or even hoping it happens may not make it happen. Everyone is driven by one thing, and that is making money. It is a nice mental attitude but the whole state needs to act.” He concluded by noting he did not think the ordinance is going to make a

difference. “I don’t think that by just changing the zoning people are going to say *I can build affordable housing here, I won’t make as much money but what the heck, I want to be a nice person.* I’m not sure what we are trying to do.”

A brief discussion about the requirements for inclusionary zoning followed with the general consensus of the members being to continue with inclusionary housing and encourage and develop more housing opportunities for the future and focus not on what we *have* but what we *need*, especially with that 0% vacancy rate when a healthy rental rate is 5 or 6%

Chair Hurley noted the applicability of the inclusionary housing ordinance will be permitted by Conditional Use Permit (CUP) and subject to the town’s subdivision and site plan review regulations. She noted the housing types are allowed in all districts that residential uses are allowed and multi-family type housing is allowed in any district that allows it as well as the rural district. She then noted she felt the Board needed conditions for granting CUPs and distributed what she thought to be consistent criteria (based on 245-44) for that granting.

Chair Hurley told the members that she had also copied the Village Commercial District Performance Standards as she was also concerned about performance standards for the inclusionary housing ordinance. Ms. Melone noted the performance standards of the underlying zoning would still apply with potential waivers for dimensional requirements needed. She cited a recent case in West Peterborough where the applicant had to abide by a 30-foot vegetated buffer they thought was 10-feet. When Chair Hurley asked about the overlay districts Ms. Melone assured her, “yes all those still apply.”

Before moving on Ms. Nelson noted she would like to address Mr. Dunbar’s concerns and gave a brief update on the progress made by the affordable housing subcommittee in creating a baseline of information to actually know where the town stands and where it is trying to go. When she asked Mr. Dunbar if he understood that he replied he did and noted the trend of people moving to New England and specifically New Hampshire “and we don’t want to turn New Hampshire into what they are leaving. Peterborough is a very desirable place to live but there are other towns that most likely don’t need housing because they are not a great town to live in. This is a situation that is occurring everywhere, and we may not be able to control it just with zoning.” After more discussion Ms. Nelson suggested Mr. Dunbar pay closer attention to what the affordable housing subcommittee is doing and encouraged him to subscribe to their newsletter. Mr. Dunbar concluded by saying “you don’t have to live in town to work in town,

some of the more prominent property owners have their businesses here but don't live here by choice.”

245-24.7 – Solar Energy Systems:

Ms. Melone projected a graphic submitted by Greg Blake of Southpack Solar that showed proposed modifications to the solar ordinance. Specifically detailing proposed changes for freestanding solar energy systems requirements by district and by size. Ms. Melone noted the suggestions were worth considering “but we have never had any requests for relief from the solar ordinance.” Given that information Ms. Heller interjected it was worth considering “but I would rather not spend any time on it right now. We have bigger fish to fry right now but I would love to come back to this next year.” After a brief discussion the members agreed. It was also noted that (perhaps) PREP or PEC would be a better venue to start these discussions. Dori Drachman was the audience and took Mr. Blake's information.

Noting a few things on her list to discuss Chair Hurley mentioned multi-family buildings was one of them. “That is going to go back to inclusionary housing” said Ms. Melone. She went on to note a prior discussion about workforce and multi-family to be just one building on one lot because as it is written or can it be multiple multi-family buildings on one lot, much like Southfield Village.

The members moved to a brief discussion about Sharon Monahan's correspondence to strongly suggest the members withdraw a proposed zoning amendment change to 245-26.E.2. allowing multi-family buildings (5-units or more) in *all* districts that allow residential uses. “That is what she is against, that is what her correspondence is about” said Ms. Melone. It was noted Ms. Monahan's basic argument was that workforce housing falls under Innovative Land Use Controls (RSA:21) which authorizes power to override the underlying zoning in a district. Ms. Monahan related that she felt this would render all dimensional requirements of a zone meaningless and hence multi-family would become a matter of right through Conditional Use Permits. She also noted she felt the allowance of such buildings throughout the entire town would be objectional to the existing single-family neighborhoods in the Family, General Residence and Rural districts, as well as business and commercial property owners who have chosen their zoning districts based on the allowed uses of their district.

A discussion about conventional zoning and subdivisions (i.e. in the Rural District) followed and members identified other obstacles such as individual driveways and the associated costs of such “whether it is workforce housing or not.” M. Melone

reiterated the way inclusionary housing is written is to allow this model in all districts in which residential uses are allowed. And multi-family inclusionary housing models are allowed in any district that allows multi-family and the Rural District. She proceeded to give the members some examples.

“Why shouldn’t there be multi-family in the Family District?” asked Ms. Heller adding “I literally do not understand that. I think it is outrageous and super offensive and we should change it.” With that Mr. Staley told the members he would like to bring up the possibility of changing all the Family District to General Residence District. “I don’t know what the history was when it became Family but I know my street (in the Family District) there are a few houses on about an acre but there are many lots as small as 0.6 or smaller, so to say a half-acre is not enough in that district is just not accurate. These legal non-conforming lots are everywhere” he said. He went on to say he could not make rhyme or reason out of the district and said “it happened in a moment in time but nothing about it makes sense now.” Mr. Dunbar noted the zoning was spear-headed by Dick Fernald in the early 1970s “It was something that was done but creating it and calling it Family. I don’t think it was intended to insult anyone, I think it was just trying to describe the area that would apply to single-family homes. That is my understanding” he said.

Mr. Staley noted he was not criticizing adding “but it is not rational and there is no reason we cannot change it if it doesn’t make sense anymore.” Ms. Melone projected a graphic showing a color-coded district map with Family in yellow and General Residence in green.

Chair Hurley read Ms. Monahan’s letter to the members which noted the use of land use boards (not a zoning regulation) to consider these type of housing models on a case-by-case basis depending on the location, neighborhood, site characteristics and services available. Ms. Monahan’s letter went on to say “by maintaining the integrity of the underlying zoning district and not rendering it meaningless for all the other properties in that zoning district, you not only protect the integrity of the zoning ordinance, you protect the rights of the citizens to due process. “So that is her argument against the proposed zoning amendment” said Chair Hurley. Ms. Stone made the argument that leaving things to Special Exceptions can create a situation where someone is out ill and not being at the meeting can literally change whether or not someone gets to build a house. Ms. Stone was corrected by Ms. Heller noting it would have to be a variance with Ms. Stone replying “OK, well literally though, someone being ill on the Zoning Board could make it that someone does not get to build a house.” She noted their own

Planning Board votes that have been close at 4 to 5 or 3 to 4 “so one person absent means the request can get a denial and I think that instead, we need to have clear concise guidelines so people can proceed. If I want to build a house here and I have to go to a Board and if I see what our Boards have done to others, sometimes taking months to get through a case, I don’t have the money. We need clear, concise guidelines.”

Circling back to the Family District Mr. Staley thought it would be helpful for the Board to see data on the amount of legally non-conforming lots in the Family District. He went on to say there would not be a lot of development going on in the Family District because it is mostly built out. “If all the yellow becomes green, the reality is that nothing is going to change. Their neighborhood and worlds are not going to change. It simply takes away restrictions that were imposed on them in the 1970s. The neighborhoods are mixed in size, it just happened and there is nothing about that (that) is going to change lives. It will only make things easier and more inclusionary, while allowing projects without getting variances. I think we should take a good look at this.” Mr. Staley relayed a personal experience that he successfully secured a variance in 2005 “but that should have not been needed.”

A brief discussion about that potential zoning change followed with Ms. Melone noting they could simply say all of the Family District is now General Residence. “In the grand scheme of things I think that is actually going to make projects for a handful of people easier.” She noted if it did not go through, they could look at doing a gentle rewrite updating things looking through the lens of 2023 and not 1970. Mr. Dunbar disagreed noting people living in the Family District would not receive the suggestion. “If they are living there because it is what it is, you start changing the district by allowing your neighbor to build something that does not fit with what is there you’ll get a lot of pushback” he said.

A brief discussion and debate of changing the Family District to General Residence followed with a focus on changing a zoning district and the realization that relaxation of restrictions that may come with it (or not).

Chair Hurley asked Ms. Melone to put something together to develop this idea before she moved on to note phased development, “a regulation that is on our books.” She went on to say “it is supposed to be reviewed once every three years and it has not been. I am a law and order type person, we can’t ignore it so I feel we should review it.”

Chair Hurley noted the ordinance was to regulate residential growth in town in a manner that ensures the public services and facilities will be provided without

creating undue burdens to the town. She went on to say that for any type of residential development that will increase the town population by more than 1% requires a phasing schedule for review. She believed it was from a managed growth initiative in the 1970s and 80s that she would just assume get rid of.

Review of new Master Plan Chapters (Housing & Population and Cultural Resources):

“This is impressive work” said Chair Hurley with a brief discussion of how the Master Plan Steering Committee had taken text filled chapters and turned them into something pleasant to review. Chair Hurley noted one point in the Cultural Resources Chapter that she did not agree with. She distributed her comment as she read:

“Page, 5 “Threats”, “Parking”:

“Lack of overnight parking for people living in the downtown areas is a barrier for developers creating new housing units. The town needs to create an overnight parking allowance for downtown residents, especially in winter.”

Chair Hurley asked if this was in fact a Planning Board issue (it is) and noted her willingness to work on the problem. A discussion about the lack of parking in the downtown in conjunction with the town’s Winter Overnight Parking Ban and snow removal operations as well as the zoning implications of parking requirements followed.

Planning Board Workshop: Review of legislative update related to timing of acting on applications - Tabled

The meeting adjourned at 8:40 p.m.

Respectfully submitted,

Laura Norton

Office of Planning & Building