



Town of Hopkinton

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HOPKINTON PLANNING BOARD MINUTES November 8, 2011

Chairman Bruce Ellsworth opened the Hopkinton Planning Board Public Hearing of Tuesday, November 8, 2011, beginning at 6:00 PM in Hopkinton Town Hall to review proposed amendments to the Hopkinton Zoning Ordinance. Members present: Vice Chairman Timothy Britain, Ex-Officio George Langwasser, Michael Wilkey, Celeste Hemingson, Bethann McCarthy, Alternate Edwin Taylor and Alternate Cettie Connolly.

A full-text of the proposed amendments is attached and has been available at the Hopkinton Town Hall, Town Clerk's Office and on the Town's website www.hopkinton-nh.gov.

1. Readopt Section XIII Growth Management and Innovative Land Use Control.

Mrs. Robertson noted that the Growth Management and Innovative Land Use Control Ordinance had expired at the Annual Town Meeting in 2011. The proposed re-adoption of the Ordinance includes revisions to the statistical data reported in subsection 13.3 Findings. Furthermore, the expiration date reflected in subsection 13.9 has been revised so that the date of expiration of the Ordinance would occur at the Annual Town Meeting in 2017.

Mr. Wilkey expressed concern with reference to "Future anticipated expenses for the Town include the construction of a new or addition to the Contoocook Fire Station," as the matter has yet to be brought before the voters.

Mr. Langwasser explained how the Selectmen had formed a committee to review the space needs of the Fire Department. As a result, the committee has recommended the construction of a new fire station in a different location. While the Town is not at a stage of presenting the concept to the voters, the Selectmen will propose a warrant article to raise \$15,000 for the development of conceptual plans.

In an effort to clarify reference to any future expansion of the Fire Station, Mr. Britain suggested subsection 13.3(ab) read as follows:

“In 2012, the Town will be asked to appropriate funds for a study to evaluate the need for an addition to or replacement of the Contoocook Fire Station and the Town may incur future expenses with respected thereto.”

Motion made by Mrs. Connolly, seconded by Mrs. Hemingson, to accept the non-substantive revisions as proposed by Mr. Britain. Motion carried unanimously (Britain, Langwasser, Wilkey, Hemingson, Taylor, Connolly and Ellsworth).

There was no public testimony.

Motion made by Mr. Wilkey, seconded by Mr. Britain, to accept the Zoning Amendment as proposed and to include the amendment on the 2012 ballot. Motion carried unanimously (Britain, Langwasser, Wilkey, Hemingson, Taylor, Connolly and Ellsworth).

At this time, Bethann McCarthy joined the Board, replacing Mrs. Connolly as a voting member.

2. Revise Table of Uses 3.6.A.7, **Home Business**, Table of Uses 3.6.A.10, **Home Occupation**, and Table of Uses 3.6.A.11, **Telecommuting** by listing the uses as accessory uses rather than principal uses.

Mrs. Robertson suggested that moving the Home Business, Home Occupation and Telecommuting uses to the Accessory Use category may be appropriate as they are accessory uses, rather than principal uses.

Chairman Ellsworth questioned whether the proposed change was as a result of an application or a matter that had been raised by residents. Mrs. Robertson replied no, stating that she had presented the amendment as a housekeeping item.

At this time, the Planning Board reviewed the Zoning Ordinance definition of an Accessory Use and Principal Use. Following brief discussion, the majority of the Board preferred that no change be made.

There was no public testimony.

Motion made by Mr. Britain, seconded by Mr. Wilkey, to not accept the amendment. Motion carried unanimously (Britain, Langwasser, Wilkey, Hemingson, McCarthy, Taylor and Ellsworth).

3. Replace subsection 2.1.A.4, **Agriculture, Farm, Farming**, definition with a revised subsection 2.1.A.4 based on revised NH RSA 21:34-a.

Mrs. Robertson noted that the Town's Agriculture, Farm, Farming definition is intended to coincide with NH RSA 21:34-a. The proposed revisions to subsection

2.1.A.4 will make the definition consistent with the revisions to NH RSA 21:34-a. The amendment will include recognition of agritourism and farmers' markets.

There was no public testimony.

Motion made by Mr. Wilkey, seconded by Mrs. Hemingson, to accept the Zoning Amendment as proposed and to include the amendment on the 2012 ballot. Motion carried unanimously (Britain, Langwasser, Wilkey, Hemingson, McCarthy, Taylor and Ellsworth).

Chairman Ellsworth declared the public hearing closed at 6:35 PM.

Chairman Bruce Ellsworth opened the regular meeting of the Planning Board, beginning at 7:00 PM in Hopkinton Town Hall. Members present: Vice Chairman Timothy Britain, Ex-Officio George Langwasser, Michael Wilkey, Celeste Hemingson, Bethann McCarthy, Jane Bradstreet, Alternate Edwin Taylor and Alternate Cettie Connolly.

I. Review of Minutes of October 13, 2011.

Review of the Minutes was deferred to the December 13, 2011 meeting.

II. Conceptual Consultation(s).

There were no conceptual consultations.

III. Application(s).

Chairman Ellsworth suggested that the Board review the applications out of order from which they are listed on the agenda. The change will insure that there are a sufficient number of members to review each application. The Board unanimously agreed.

At this time, Chairman Ellsworth recused himself so that he may present an application to the Board. Vice Chairman Britain chaired during Mr. Ellsworth's presentation and Mr. Taylor participated as a voting member.

- a. Lot Line Adjustment – **Bruce Ellsworth #2011-7**. Mr. Ellsworth presented plans of a Lot Line Adjustment involving a lot owned by Gail R. Ellsworth Revocable Trust, located at 46 Tamarack Road, shown on Tax Map 211 as Lot 16 and a lot owned by Patricia L. Walton, located at 18 Tamarack Road, shown on Tax Map 211 as Lot 17.

Mr. Ellsworth advised that for the 46 years he has lived at his property and prior, his driveway entrance, mailbox and courtesy light have been located on the neighbor's property. The proposed lot line adjustment will add .026 acres,

driveway entrance, mailbox and light to the Ellsworth property. The Ellsworth property will then consist of 3.07 acres and Ms. Walton's property will contain 1.45 acres.

Motion made by Mrs. Hemingson, seconded by Mr. Wilkey, to accept application #2011-7 as complete and for consideration. Motion carried unanimously (Langwasser, Wilkey, Hemingson, McCarthy, Bradstreet, Britain and Taylor).

There was no one present wishing to give public testimony.

Note: On August 8, 2001, the Zoning Board of Adjustment granted a Variance allowing Lot 17 to be more non-conforming as a result of the lot line adjustment.

Mrs. Hemingson, seconded by Mr. Wilkey, moved approval of application #2011-7 as presented. Motion carried unanimously (Langwasser, Wilkey, Hemingson, McCarthy, Bradstreet, Britain and Taylor).

At this time, Vice Chairman Britain recused himself due to the fact that his law firm represents the United Methodist Church, abutter to the Rose View property. *Note: Vice Chairman Britain was also excused from the meeting that followed the public hearing.*

Chairman Ellsworth rejoined the Board and Mr. Taylor remained seated as a voting member.

- b. Lot Line Adjustment – **Eric Murphy #2011-8**. Jason Hill of Holden Engineering addressed the Board representing Mr. Murphy for a Lot Line Adjustment involving two lots located at 1025 South Road, shown on Tax Map 253 as Lots 26 and 27.

In presenting the plans, Mr. Hill stated that he had previously been before the Board with a conceptual plan involving the lot line adjustment being proposed. At the time, the Planning Board had asked that the lot lines be readjusted so that the lines weren't irregular. Mr. Hill believed that the plan now presented addressed the Board's previous concern. The properties are both owned by Mr. Murphy with Lot 26 consisting of 20.83 acres and Lot 27 6.25 acres, along with the existing residence. The proposal is to reconfigure the lot lines so that Lot 26 consists of 2.99 acres and Lot 27 will consist of 24.09 acres. The intentions were to utilize the natural features in establishing the boundary lines. Two existing peach trees will be utilized to mark the new boundary. This will allow Mr. Murphy to keep the trees on his property with his residence.

Mr. Hill requested a partial waiver of section 3.3.1(d), which requires the boundary survey of the entire property. The entire property was surveyed in

1984 to create the two lots in question. Mr. Hill stated that the granting of the waiver will not be detrimental to the public safety, health, or welfare or cause injury or damage to other property. The waiver does not vary from the provisions of the Town's Zoning Ordinance or Master Plan.

Due to the readjustment in acreage for Lot 26, approval from the NH Department of Environmental Services is required and is pending.

Motion made by Mr. Wilkey, seconded by Mrs. Bradstreet, to accept application #2011-8 as complete and for consideration. Motion carried unanimously (Langwasser, Wilkey, Hemingson, McCarthy, Bradstreet, Ellsworth and Taylor).

There was no public testimony.

Mrs. Hemingson noted that she was not present during the conceptual consultation. She asked that members that were present explain why they had felt that the original proposal, in which the lot line had followed along a driveway that is used to access the rear of the property, wasn't desirable. Chairman Ellsworth stated that while the lot lines proposed had made sense in the field they seemed arbitrary and irregular on paper.

Mr. Taylor noted that the interior setback line is mistakenly shown along the existing lot line, rather than along the proposed new lot line. Mr. Hill agreed, stating that he would make the necessary correction to the plan.

Mr. Taylor inquired about the 1984 property survey. In response, Mr. Hill stated that the survey had been completed for the previous owners at the time they had requested subdivision approval for the two lots now in question.

Motion made by Mr. Wilkey, seconded by Mrs. Bradstreet, to approve application #2011-8 subject to NH Department of Environmental Services approval and the final plan showing the correct location of the interior setback line. Motion carried unanimously (Langwasser, Wilkey, Hemingson, McCarthy, Bradstreet, Ellsworth and Taylor).

- c. Site Plan Review – Multiple Principal Uses. **Rose View Properties #2011-6.** Tim Bernier of T.F. Bernier, Inc. addressed the Board for Site Plan Review to construct a three-story, 2,088 sq. ft. building with retail space on the ground floor and future apartment and/or office space on the second and third floors. The property is located 14 Maple Street, shown on Tax Map 101 as Lot 7, VB-1 district. The request is associated with Zoning Ordinance Table of Uses 3.6.A Residential Uses and 3.6.F Commercial Uses and subsection 4.4.3 Principal Structure. Review of the application was a continuation of the October 13, 2011 public hearing.

An Existing Conditions Plan and a Grading and Landscaping Plan had been submitted for the Board's review. A raised landscaped island is shown in place of a sidewalk to control traffic flow and to prevent vehicles from backing out into the street. The Site Plan had been revised to show vertical granite curbing around the parking area. The curbing is proposed at six (6) inches in height at the walkway. Junipers and other similar ground cover are to be used for small areas to be landscaped. The lighting detail includes recessed lighting under the front porch. Additionally, the sign dimensions and location as shown will conform to the requirements of the new Sign Ordinance.

Mr. Bernier advised that he had received feedback from NH Department of Transportation (NH DOT) concerning the island being located within the right-of-way. The response was that they did not want any curbing within six (6) feet of the road. So, the plans presented had been revised to reduce the size of the landscaped island by one (1) foot. With regards to the Board's interest in having a sidewalk in front of the property, NH DOT had provided a few options. They would allow the sidewalk at the edge of the shoulder; however, it would have to be constructed at the existing grade. This would significantly reduce the size of the landscaped island to two (2) feet as the sidewalk would have to be constructed at no less than four (4) feet in width. Another alternative is to construct a raised, curved sidewalk with tip downs.

Mrs. Hemingson discussed the Planning Board's interest in creating a walkable community that would encourage people to look into business window fronts. Mr. Langwasser concurred, but noted that the issue is whether the Applicant has sufficient room to include adequate parking to address safety concerns, along with the sidewalk. He then noted that there is very little sidewalk presently on that side of Maple Street.

Mrs. Connolly, a member of the Safe Routes to School Committee, informed the Planning Board of the Committee's efforts in developing sidewalks for the children to use. She advised that there are no plans to construct a sidewalk, along Maple Street, on the same side as the United Methodist Church and the Rose View property. However, there are plans to improve the intersection of Cedar and Maple streets that will include a sidewalk from Maple Street School to Cedar Street, so that children will not have to walk along Maple Street to get to Cedar Street. Additionally, there is always a crossing guard at Maple Street should the children need to cross to the existing sidewalk opposite the School.

Mrs. McCarthy questioned whether the travel lane, located between the parking area and the island could be reduced to accommodate a sidewalk. Mr. Bernier replied no, explaining that a twenty-four (24) wide travel lane is the minimum width that would realistically allow a vehicle to back around. Mrs. McCarthy suggested that eighteen (18) to twenty (20) feet may be sufficient.

Discussion continued with some members suggesting that the sidewalk and travel lane could be shared space with the sidewalk painted, adjacent to the island, in the travel lane. However, there were safety concerns for having the sidewalk at that location. Following brief discussion as to the various designs for a sidewalk, Mr. Bernier agreed that a sidewalk would be constructed separate from the travel lane.

Mr. Langwasser questioned where tenants of the building would park when the parking in front of the building is utilized by the retail establishments. In response, Mr. Bernier stated that during the day public parking would be utilized and in the evening the tenants would park onsite. The Applicant requests, due to the size of the lot, that the additional six (6) parking spaces that would be required for future apartment/office space be allowed in the municipal parking lot that is within 500 feet of the site, in accordance with the provisions of section 6.2 of the Zoning Ordinance.

Furthermore, Mr. Bernier requested that the Planning Board grant a Special Use Permit, in accordance with the provisions of subsection 4-A.4.5 of the Architectural Design Review Ordinance, to reduce the building setbacks from that which would otherwise be applicable in the VB-1 district. Mr. Bernier addressed the Variance criteria:

1. The proposed use would not diminish surrounding property values because: “The proposed building architecture has been designed to be consistent with the surrounding building styles found in Contoocook Village. The proposed building will be entirely contained inside the footprint of the previous building (Columbia Hall), and in all cases will be equal or more conforming to the current zoning requirements.”
2. Granting the Variance would not be contrary to the public interest because: “The proposed building will be built within the footprint of the previous building, which existed for many years, with a decrease in overall lot coverage. The new building has also been designed to provide safe off-street parking which did not exist before.”
3. By granting the Variance substantial justice would be done because: “The building is consistent with surrounding architecture and meets current fire and safety codes. There will be safe off-street parking and less overall lot coverage, which will decrease storm runoff to abutters’ land and promote road runoff to the existing closed drainage system.”
4. The spirit and intent of the Ordinance will not be broken by granting the Variance because: “The existing lot of record existed prior to the Hopkinton Zoning Ordinance. The proposed building will be smaller than

the previous building and is in no case less conforming to zoning requirements, but in most cases more conforming.”

5. Literal enforcement of the Ordinance results in unnecessary hardship: (i) No fair and substantial relationship exists between the general public purposes of the Ordinance provision and the specific application of that provision to the property: “The proposed building will be smaller than the previous building and is no less conforming to the building setbacks. The non-conforming lot and previous building had been in existence long before the Hopkinton Zoning Regulations, but the previous building could not be reasonably renovated due to safety concerns.” (ii) The proposed use is a reasonable one: “The proposed retail space and office or apartment space is consistent with other mixed uses in Contoocook Village. The new building will provide an attractive, inviting site for visitors entering the downtown area.”

A comparison of the setbacks for the prior and proposed building is listed:

Front:	35.6' proposed; .42' prior
Rear:	4.1' proposed; 2.7' prior
Right:	2.6' proposed; 1.9' prior
Left:	3.2' proposed; 3.2' prior
Stairs:	.5' proposed; 2.2' prior (on neighbor's property)

Motion made by Mr. Wilkey, seconded by Mrs. Bradstreet, to approve application #2011-6 with the following:

1. Approval of the Special Use Permit to reduce the building setbacks;
2. Approval of use of the municipal parking lot for the additional six (6) parking spaces required for use of the second and third floor residential/office uses, and
3. The construction of the parking lot and sidewalk as represented.

With seven members voting, six voted in favor (Langwasser, Wilkey, Hemingson, Bradstreet, Ellsworth and Taylor) and one voted in opposition (McCarthy). The application was approved.

IV. Other Business.

Site Plan Review Regulations (Draft) – Motion made by Mr. Wilkey, seconded by Mrs. Hemingson, to move the draft Site Plan Review Regulations to public hearing. Motion carried unanimously.

Energy and Land Use Regulatory Audit – The Board unanimously agreed to invite Vanessa Gould of CNHRPC to the January or February meetings to present her findings.

V. Adjournment.

With no other business to come before the Board, Chairman Ellsworth declared the meeting adjourned at 8:35 PM. The next regular scheduled meeting of the Planning Board is Tuesday, December 13, 2011, at 7:00 PM in the Town Hall.

Karen L. Robertson
Planning Director

In accordance with RSA 677:15, any person(s) aggrieved by any decision of the Planning Board concerning application(s) may present to the Superior Court a petition, duly verified, setting forth that such a decision is illegal or unreasonable in whole or part and specifying the grounds upon which the same is claimed to be illegal or unreasonable. Such petition shall be presented to the court within thirty (30) days after the Board's final decision regarding the application in question has been filed and becomes available for public inspection in the Planning Office.