

PLANNING BOARD MEETING  
JANUARY 7, 2015

PRESENT: Ed Dekker, Chairman, Ned Nichols, Liz Freeman, Bert Hamill, Tim Jones, Joanne Meshna, (Attempt was made to connect Paul by phone but failed.)

The meeting was called to order at 7:00 p.m. at the Town Office. Joanne was appointed to fill Paul's vacancy.

Public hearing on the amendment to the Zoning Ordinance on clusters: Liz stated she would like to simplify the amendment by replacing the entire amendment with a single change. The change would be to remove the requirement that no more than 50% of the open space be wetlands or steep slopes. Current regulations force the developer to fold steep slopes and wetlands into the house lots. She proposed changing the amendment to remove that requirement and suggested the Board revisit conservation subdivisions in the future.

Bert stated he was reluctant to make a single change and then come back again in a year or so and make another change. He did not think incentives would make any difference for developers to do clusters. The math does not work and does not make for a viable project. He suggested the Board needed to discuss philosophy rather than make pinpoint changes.

Ed stated he thought the simplified amendment made the ordinance better. Tim asked what the next change might be and Liz responded that after studying the purposes of the conservation subdivision, etc., there should be a complete rewrite. Bert noted the buildable land needs to be looked at and that should be the basis for the design. Ned added that the amendment makes it slightly more advantageous for a developer but more discussion is needed and there is no reason to do the amendment this year. Liz noted the amendment would remove a major flaw in the ordinance and makes it a better cluster.

Ned made a motion to withdraw the first amendment on cluster. Bert seconded the motion and it passed unanimously. Liz made a motion to reconsider Ned's motion. Bert seconded the motion and it passed unanimously. Liz made a motion to amend the cluster amendment by the simplified amendment presented this evening. Bert seconded the motion and it passed unanimously.

Liz made a motion to continue the hearing on cluster to January 21, 2015 at 7:00 p.m. Tim seconded the motion and it passed unanimously. Liz made a motion to continue the hearing on accessory dwellings until after the hearings on the petitioned warrant articles. Ed seconded the motion and it passed unanimously.

7:30 p.m. Public hearing for petitioned warrant articles:

Ed read the first petitioned warrant article which eliminates the permitting and inspection requirements for outbuildings up to 500 square feet, additions up to 250 square feet, and renovations of any size.

David Lage informed the Board the article was illegal as it diminishes the State building code. The Town cannot reduce the requirements of the State building code. The State building code requires a building permit for renovations, additions and any structure over 120 square feet. Ed noted that the Planning Board cannot change a petition warrant article or can the public. Ed closed public input for Board deliberations. Liz made a motion that the Planning Board not recommend the petition warrant article to eliminate the permitting and inspection requirements for outbuildings up to 500 square feet, additions up to 250 square feet, and renovations of any kind. Bert seconded the motion and it passed unanimously.

The public hearing on the second petitioned warrant article to add physical boundaries along Routes 123/124 to the Limited Commercial District (LCD) was held next.

Patricia Lage, 593 Turnpike Road, spoke against the amendment. She stated the amendment is illegal as it is an example of spot zoning. She noted most of the petitioners do not live in the area. The changes take away the control of sizes for development. She referred to a Supreme Court case, *Munger v. Exeter*, and spot zoning, and in that case the Supreme Court denied the rezoning as it hurt the abutters and only helped certain people. She added that approving the amendment will open up the Town to law suits.

Joe Fionda, 599 Turnpike Road, asked why the major landowners were not notified of the amendment. Ed responded this was a petitioned warrant article and no notification is required.

David Lage, 593 Turnpike Road, asked why the properties between Thayer Road and Main were not included in the boundaries and the Board did not know the answer.

Susan Williams, President of the Historical Society, stated the change affects the Village II District because it is overlaid on top of the district and questioned which one took precedent. She read the purpose of the Village District and stated she was concerned about the New Ipswich Center Village which is protected by its status as an historical district under the National Register of Historic Places. It was nominated because it was considered by experts to be a significant place architecturally and because it represents the history of the development of the country between 1739 and the 1930s. She was opposed to the warrant article and believed the Board of Trustees of the Historical Society would stand behind her.

Patricia Lage stated there are some houses that need repair but also many have been bought and improved. She added that most of the lots are small and have a lot of wetlands. The area should stay as it is and there are other areas in Town that could better be served with a commercial district. She added the Board should not recommend the article.

Joe Fionda stated the amendment is self-serving and is not for the benefit of the Town. He did not think the Board should recommend the article.

Ed closed the public input and the Board deliberated. He noted the LCD is not written as an overlay district but as a standalone district and as submitted the article puts the area into the LCD district

without taking it out of Village District II or the rural district. That technical error alone is enough to reject it.

Liz noted that because of the dimensional controls for the LCD a big retail or fast food store could be located 30 feet from the property line and the Planning Board would not be able to disapprove an application on that basis. That would be unfair to people with homes in that area.

Bert stated there are two separate groups which think there should be and should not be a commercial district. He added at some point having a commercial district will resurface again and that needs to be placed somewhere. He noted the warrant article is flawed and he was not in favor of it.

Ned stated there is a need for a commercial district and this is where most of the commercial activity occurs so it is a logical place. There are dimensional controls for the LCD. He felt people should have a vote on a commercial district.

Ed reopened the public input.

David Lage strongly urged the Planning Board to develop a LCD. He referred to vacant land further west on Turnpike Road that might work.

Liz listed some of the impacts of retail development on residential properties such as snow plow trucks and delivery trucks early in the morning, lighting and glare from the lighting associated with retail establishment, lots of wet areas, septic problems already existing, and additional traffic.

Bobbie Fionda, 599 Turnpike Road, thought it would be a good idea to work on a plan for a commercial district. She noted center village needed some work and people should be encouraged to fix up their houses and properties.

Ed stated he was not convinced a commercial district is appropriate for New Ipswich. Currently a special exception is required for commercial development which gives the abutters a forum to speak on the project. There are no blocks of land without residential homes where a commercial district could go. The system in place now with the Zoning Board acting as a gatekeeper is a good system.

Tim stated he was for a LCD initially but with no water or septic, industry will not be attracted to New Ipswich. He added a LCO in the area proposed does not fit.

Deidre Daley, 63 Old Beaver Road, stated the article sends a message to the Board that some people want a commercial district.

Susan Williams added that the Village District allows commercial activity but not at the scale of the Dollar General.

Liz made a motion that the Planning Board not recommend the petitioned warrant article for adding physical boundaries along routes 123/124 to the Limited Commercial District. Tim seconded the motion and it passed with Joanne, Ed, Bert, Tim, and Liz in favor and Ned opposed.

8:10 p.m.: Liz made a motion to hold the hearing for amendment number 2 on accessory dwelling units. Bert seconded the motion and it passed unanimously. Ed explained that duplexes are now allowed but must be in the same physical structure. If there is a detached garage or barn, a mother-in-law apartment cannot be put in that structure. The amendment would allow this as an accessory dwelling unit. The accessory dwelling is not limited to mother-in-law apartments only but could be rented.

A special exception would be required for an accessory dwelling. David Lage, a member of the Zoning Board, stated it would be difficult to enforce and to deny a special exception. Bert stated the dwelling would have to meet code and would need a permit from the Building Inspector. He added that it will add value to the primary residence. Tim added that with the aging population this might help with income for them. The dwelling is not restricted to family members. Ned did not see a need for it and some neighbors may object. Ed stated the special exception would address abutter issues.

David Lage questioned why the amendment was being proposed. Liz noted the Master Plan survey indicated housing was needed for all levels. There was also concern about housing for the elderly. Ned noted the amendment came out of left field last minute and questioned why all of a sudden the amendment is so important; there has not been a lot of discussion on it.

David Lage stated the amendment was too subjective. With the language in the amendment, it would be hard for the Zoning Board to deny an application for an accessory building.

Liz referred to 3. f. of the amendment and the language added in bold which stated "In the case where no building permit is required, the building inspector must certify compliance with building codes and the New Ipswich Zoning Ordinance;" This was added in response to Bert's concern for existing buildings being made into accessory dwellings without any inspections. Liz made a motion to add the wording to the proposed amendment. Bert seconded the motion and it passed with Bert, Liz, Tim, and Joanne in favor and Ned abstaining.

Liz made a motion to continue the hearing to January 21, 2015. Bert seconded the motion and it passed unanimously.

Joanne reported that she had changed the minutes of the December 3, 2014 meeting after having listened to the tape recording. Bert made a motion to approve the minutes of December 3, 2014 as amended. Ed seconded the motion and it passed unanimously.

The minutes of the December 17, 2014 meeting were reviewed and the following corrections made: page 1, under the cluster hearing, first bullet should read "...be more attractive to developers and some members felt the amendment was counter-productive to that."; page two, third bullet should read "...by the subcommittee elderly housing was hard..."; third paragraph should read "When the vote was taken

on the above motion, all were opposed.” page 3, second paragraph, last sentence should read “passed with Liz, Bert, Tim, Woody and Ed in favor...”; fourth paragraph last sentence should read “...routes 123/124 to the Limited Commercial District.” Bert made a motion to approve the minutes as amended. Liz seconded the motion and it passed unanimously.

Ned stated that the language for the warrant for the warrant articles should be approved by the whole Board.

The meeting adjourned at 8:50 p.m.

Respectfully submitted,

Joanne Meshna, Land Use Manager