

**Planning Board
Boardroom, Municipal Building – 7:30 p.m.
April 1, 2008**

Board members present: Nancy Collier (Chair), Kate Connolly (Selectmen’s representative)
Bill Dietrich, Judith Esmay, Charlie Faulkner, Jim Hornig, Michael Mayor

Alternates present: Joan Garipay, Mike Hingston

Selectmen Alternate: Bill Baschnagel

Staff present: Judy Brotman, Jonathan Edwards, Vicki Smith

Other: Please see meeting sign-in sheet.

Public Hearing on proposed zoning amendments for Town Meeting 2008

Institutional Dining Facility: Amend Section 204.4 by adding “Institutional Dining Facility” to the list of uses allowed by Special Exception, amend Section 404.1 by adding “Institutional Dining Facility” to the list of use categories along with a minimum parking requirement, and to add a definition of “Institutional Dining Facility” to Section 902.

DIETRICH questioned the wording “[a building] *used primarily to provide food service*”. He asked what would happen if only 30% of a building was used for food services. COLLIER suggested changing the wording to “*used primarily a building or a portion of a building to provide food service*”. Judy Brotman, Zoning Administrator, recommended leaving the text as proposed originally.

Joanna Whitcomb, of Dartmouth College, said the proposal was submitted to distinguish institutional dining facilities from restaurants with respect to use and parking needs.

It was moved by CONNOLLY, seconded by MAYOR, to “put this amendment concerning Institutional Dining Facility, dated revised February 26, 2008 by the Planning Board, on the Warrant.” The Board voted UNANIMOUSLY in favor of this motion.

Add a new Section 408 to Article IV to allow a reduction in the number of off-street parking spaces that might be otherwise required if an applicant prepared and implemented a Parking and Transportation Demand Management Program (PTDMP) acceptable to the Planning Board:

COLLIER said this amendment would be implemented through the process of Site Plan Review approval. Amendments to the Site Plan Review regulations will be reviewed and adopted at a later date if the proposed zoning amendment is approved. ESMAY requested adding a connection between the first and second sentences to strengthen the link between the PTDMP and its review under the Site Plan Review. Mr. Edwards said it was too late for

the Board to make substantive changes. Gabe Zoerheide, Transportation Director of the Upper Valley Transportation Management Association, said the proposed wording had been approved by Town Counsel. He explained that the parking requirements, regulated by the Zoning Ordinance, could be satisfied or substituted via an approved PTDMP presented as a part of Site Plan Review approval. BASCHNAGEL said this would provide applicants the opportunity to submit PTDMP's in lieu of a literal implementation of the zoning requirements. Mr. Edwards said this approach would be mute in practice until the accompanying Site Plan Review regulations are modified.

Doug McIlroy, of 1 Hayfield Road, asked what would happen if people did not adhere to an approved plan. Mr. Zoerheide said the property owner would be required to act immediately to mediate any adverse effects on the community. If a situation of non-compliance occurred, the Town could assess fines. Mr. Edwards added that the Town could also refrain from accepting any additional permit applications for that property until compliance was restored. CONNOLLY and COLLIER expressed concern for the alternatives available to mediate adverse effects given the limited land available to build peripheral lots. COLLIER suggested the Site Plan Regulations should require an applicant to reserve undeveloped land for future spaces to ensure compliance. Mr. Zoerheide insisted there were several mediation options available including the use of church lots, peripheral lots, and lots available in adjacent towns. He said the intent of the amendment was to relax some of the current restrictions, make better use of existing parking, and provide a tremendous amount of oversight on parking the Town did not currently have. COLLIER asked if the Board had the authority to impose a condition of approval that would require the use of lots in other municipalities. Mr. Edwards said yes but an applicant would have to prove that parking was allowed in those areas prior to the Board approving it. HORNIG agreed it may be necessary to require larger operations to reserve alternative options.

Winifred Stearns, of 5 Dorrance Place, spoke in opposition to the amendment. She said the Town was not set up to enforce infractions. Mr. Edwards advised that the Town would have to seek a court order to assess fines or be granted injunctive relief to cease operations. HINGSTON said in most cases, the Town did not seem to worry about enforcing zoning violations. Arthur Gardiner, Chair of the Zoning Board of Adjustment, said enforcement issues would depend heavily upon the facts of the PTDMP. The Planning Board would have total discretion in determining whether a particular plan would work and how enforcement could be addressed before granting Site Plan Review approval of a proposed project.

MAYOR spoke in favor of the amendment, stating that unforeseen consequences could be dealt with in the future with further revisions.

ESMAY suggested amending the wording to state "*Site Plan Regulations shall substitute for all provisions...*"

COLLIER questioned the Planning Board's knowledge of the Town's parking situation. She said she would support the amendment if she had more time to research it. She urged the Board to require the reservation of undeveloped land as a part of the Site Plan Review

approval if this amendment went forward. Mrs. Stearns said it was not likely that a neighboring town would accept a parking lot for Hanover commuters.

It was moved by HORNIG and seconded by Mayor “to put this amendment, the addition of the new Section 408 to the zoning code with the one word addition proposed by ESMAY, on the warrant.” The Board voted 6 in favor with Nancy Collier opposed.

Affordable Subdivision Lots and Multi-Family Dwellings: To move paragraph 502.6, Inclusionary Housing, to become a new section 212.

COLLIER said this would allow more density in the form of affordable units. The affordability aspect would be guaranteed for the life of any new lot or dwelling unit created.

Mrs. Stearns spoke in opposition to the amendment. She asked which zones would be impacted. She spoke about the erosion of the quality of life in the SR districts and asked that SR-2 be excluded. Mr. Edwards said this would apply to SR, GR, RR, and OL but would be limited to properties that could produce major subdivisions, open space subdivisions or multi-family proposals resulting in the addition of at least 5 new affordable lots or dwelling units.

Mrs. Stearns said it would be discriminatory to put a spectrum of downtown workers in a downtown district and was not to the advantage of the Town. She asked that “downtown” boundaries be defined geographically, indicating where the downtown ends, and that existing zoning boundaries be respected.

Mr. McIlroy said this could result in the creation of long, skinny lots. He asked the meaning of the term “*legally in existence*”. Mr. Edwards said if an applicant petitioned the Selectmen to abandon the streets of an existing subdivision, thereby reassembling the property, the subdivision would no longer exist legally. Mr. McIlroy asked if there had been any discussion about recouping the subsidy if an affordable unit became market value. Mr. Edwards said applicants would have to provide the means and methods to guarantee continued affordability throughout the duration of the development. Tax subsidies would not apply.

It was moved by FAULKNER, seconded by ESMAY, “to move this amendment to the warrant for Town Meeting.” COLLIER asked staff to update the narrative description of the proposal to reflect what zones would be affected by this amendment. BASCHNAGEL suggested adding an example of potential build-out. The Board voted unanimously in favor of this motion.

Wetland Update: To delete Section 702 and replace in its entirety:

DIETRICH asked that the X’s recorded in the Comparison of Local and State Wetlands Permitting table of the amendment narrative be clarified.

COLLIER advised of Helen Lacoss' question about how this would apply to timber land management which was not regulated in the past. COLLIER said reports of impacts within 100' of a wetland should have been reported to the Town in the past. The new proposal would require Town notification if activity occurred within 75' of the wetland.

CONNOLLY asked what the current buffer was for a vernal pool. Mr. Edwards said 75'.

CONNOLLY asked the meaning of the last paragraph of Section 702.7A with respect to the protection of water resources. Ms. Smith said this would allow more impact to water resources if being done for a good reason, such as to protect historic resources, scenic views or agricultural soils.

CONNOLLY asked of the ability of the Conservation Commission to request additional information from applicants. Mr. Edwards said this would mirror the current practice. Ms. Smith said the Commission's detailed reviews helped applicants to be better prepared for review by the Zoning Board. She said the majority of their requests related to how a project would be done, which was lacking in most applications. BASCHNAGEL asked if this would change the timing of the review period of a Wetland Special Exception application. Ms. Smith said no. It was noted that the Commission's approval was required for State permitting.

Dave Cioffi, of 20 Partridge Road, spoke in opposition to the proposed amendments citing infringement upon owners' rights and financial burden as his reasoning. He asked why the parameters of Administrative Permits were expanding to include smaller wetlands (going from 3,000 sq. ft. wetlands to 2,000 sq. ft. wetlands). Mr. Gardner said that was a compromise to another portion of the amendment that would allow certain activities that disturb only very small wetlands without permitting.

Mr. Cioffi asked why vernal pools required regulation. Mr. Gardiner said they are already regulated because they fall under the umbrella of "wetlands".

BASCHNAGEL suggested adding a table to the narrative to compare the current regulations to the proposed regulations. COLLIER asked staff to draft a one-page, question-and-answer sheet. CONNOLLY asked that State regulations be included in the comparison. HINGSTON said the current and proposed regulations could not be compared easily in a matrix. He suggested revising the informational handbook to talk about permitting requirements for different activities that occur in the wetlands, rather than defining wetlands.

Mr. Cioffi asked why underground water required regulation. Mr. Gardiner said it is already regulated because it falls under the umbrella of "ground water".

Mr. Cioffi & HINGSTON expressed concern for the use of the word "activity". Mr. Cioffi asked who would decide whether an activity would change the quality or flow pattern of water. Mr. Gardiner said it would be a matter of administrative discretion. Mr. Edwards said the State uses the term "project" which could be considered more ambiguous and subject to bizarre interpretations. He reiterated that the proposed amendment was a compromised

product. He said no one on the wetland subcommittee was more than 80% satisfied with the whole thing.

Mr. Cioffi asked why the change was proposed to require permitting for work within the 50' to 75' buffer rather than the current administrative review for 5,000 sq. ft. or less of disturbance in the outer buffer. Mr. Gardiner said the 5,000 sq. ft. reference in the current Ordinance addressed only excavation, filling, grading, or dredging. This was another compromise to allow more activities in a smaller buffer (from 5,000 sq. ft. to 3,000 sq. ft.). Mr. McIlroy said the wetland subcommittee felt that 5,000 sq. ft. was too large.

Mr. Cioffi said the narrative implied that the town was bending over backwards to help landowners when in fact it was just adding more regulation. He asked if Hanover had serious wetland problems that could not be addressed with the current regulations. Ms. Smith said it was impossible to administer the language in the current regulations literally. The proposed amendment was a more realistic attempt to define what we want to regulate. Mr. McIlroy said the current Ordinance restricted any project that would impact a wetland, which was impossible to achieve. This was a more honest approach at wetland protection. Mr. Edwards said this was also an attempt to parallel local regulations with DES regulations as much as possible, to make it easier, cheaper and more predictable for an applicant to conform. Mr. Gardiner added that it would also eliminate the requirement that professional engineers and soil scientists be consulted.

It was moved by DIETRICH, seconded by MAYOR, to “send this amendment to the Warrant for Town Meeting.” The Board voted unanimously.

COLLIER asked the Board to mark up their copies of the Water Resource Protection in Hanover booklet and forward them to Ms. Smith for editing. If the proposed amendment is approved at Town Meeting the Board will review the handbook in May.

Approval of Minutes: The minutes of June 5, 2007 were approved as corrected.

Other Business

- GARIPAY volunteered to join the Town/School District committee to create safe routes to school.
- CATV is interested in videotaping Planning Board meetings for public broadcasting. The Board will act on this request at the next meeting.
- Staff Review is scheduled for April 7, 2008 at 1:00 p.m.
- The Board reviewed their May schedule.
- The Board briefly discussed an update to the Regional Plan that was provided to them.

Adjourn: The meeting adjourned at 10:20 p.m.

Respectfully submitted,

Beth Rivard, P&Z Administrative Assistant