



Town of Hollis

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HOLLIS PLANNING BOARD MINUTES

January 16, 2024 – 7:00 PM Meeting - Town Hall Meeting Room

MEMBERS OF THE PLANNING BOARD: Bill Moseley, Chair; Doug Cleveland, Vice Chair; Julie Mook; Benjamin Ming; Virginia Mills; Jeffrey Peters; David Petry, Ex-Officio for the Selectmen; Alternate Members: Chet Rogers; Richard Hardy; Mike Leavitt.

STAFF: Kevin Anderson, Town Planner & Environmental Coordinator; Mark Fougere, Planning Consultant.

ABSENT: J. Peters, J. Mook, D. Petry, C. Rogers; M. Fougere.

1. CALL TO ORDER – 7:00 PM. B. Moseley led the group in the Pledge of Allegiance.

B. Moseley stated that due to absences at this meeting, M. Leavitt and R. Hardy will be voting.

2. APPROVAL OF PLANNING BOARD MINUTES:

December 19, 2023: **Motion to approve** – motioned by R. Hardy, seconded by D. Cleveland; V. Mills and B. Ming abstained. Motion passed.

3. DISCUSSION AND STAFF BRIEFING:

- a. Agenda Additions and Deletions: K. Anderson stated that the only application on the agenda for this meeting, File PB2023-012, has been requested to be continued to the Planning Board's next meeting, February 20.

Motion to continue File PB2023-012 to the Planning Board's meeting on February 20, 2024 – motioned by R. Hardy, seconded by M. Leavitt; motion passed unanimously.

- b. Committee Reports: none.
- c. Staff Reports: none.
- d. Regional Impact: none.

4. SIGNATURE OF PLANS:

PB2023:018 – Depaulis Family Revocable Trust lot line adjustment. K. Anderson stated that everything has been taken care of; they just need to bond their lot corners, which is typical. Staff has no concerns regarding signing this plan.

Motion to approve signature – motioned by V. Mills, seconded by D. Cleveland; motion passed unanimously.

5. CASES:

- a. **File PB2023:012 – Design Review:** New residential subdivision for 35 new residential homes on a new road connecting Deacon Lane and Proctor Hill (Route 130). Owners: Raisanen Homes Elite, LLC., Applicant: Fieldstone Land Consultants, PLLC., Map 17 Lots 5, 8 & 9, Zoned: Rural Lands (RL). **Continued from the December 19, 2023 meeting. No Public Comment.**

As above, this case was removed from the agenda for this meeting, and continued to the Board's February 20, 2024 meeting.

6. OTHER BUSINESS:

a. Proposed Zoning Amendments.

B. Moseley and K. Anderson stated that we went through these with a public hearing at the Board's last meeting, December 19, but wanted to be certain that the proposed amendments were prominently available via the Town's website – and so are giving the public another opportunity to comment on the proposals at this meeting tonight.

B. Moseley stated that the Board will be voting on whether to send the first seven proposed zoning amendments to ballot. The last proposal is a petition ordinance change, which will automatically go to ballot; the Board will vote as to whether they support it or not.

1. K. Anderson stated that the first amendment has to do with the Hollis Open Space Planned Development (HOSPD) regulations. On some of our previous projects, the language in the regulations was found to be unclear. This proposal adds language which clarifies that when you're filing for a HOSPD subdivision, you have to adhere to all zoning ordinances and subdivision regulations. Additionally, each conventional lot is looked at as a project as a whole, rather than separately. These changes will clear up potential loopholes.

Public Hearing.

There were no speakers on this proposed amendment.

Public Hearing Closed.

Motion to send the proposed amendment #1 to ballot – motioned by B. Ming, seconded by V. Mills; motion passed unanimously.

2. K. Anderson stated that the second amendment is to the Enforcement and Administration section. As discussed at the last two meetings, Staff is recommending an addition to this section that states "No building permit(s) shall be issued for a property with an outstanding Zoning, Site Plan Regulation, and/or Subdivision Regulation violation(s)." This again closes a potential loophole.

Public Hearing.

There were no speakers on this proposed amendment.

Public Hearing Closed.

Motion to send the proposed amendment #2 to ballot – motioned by M. Leavitt, seconded by D. Cleveland; motion passed unanimously.

3. K. Anderson stated that the third amendment is to Section XI: Overlay Zoning Districts, paragraph c. Wetland Conservation Overlay Zone (WCO), and two paragraphs within it. The purpose of this amendment is to clarify the review of wetland buffer disturbance and to reduce the impacts on wetland buffers.

Public Hearing.

There were no speakers on this proposed amendment.

Public Hearing Closed.

Motion to send the proposed amendment #3 to ballot – motioned by D. Cleveland, seconded by M. Leavitt; motion passed unanimously.

4. K. Anderson stated that the fourth amendment has to do with a change to the definition of a temporary structure. There was some confusion on this at the Board's last meeting, and he has since clarified with the Building Inspector. What we're trying to do is align our definition to that of the International Building Code – so we are adding some language that it needs in order to comply. This is a requirement when it comes to temporary structures, including tents. The IBC currently views one and two-family owner-occupied properties as exempt from having to apply for building permits for temporary structures, so this would be for commercial and other industrial properties. Temporary structures of 400 square feet or larger will require inspection from the Building Inspector prior to occupancy. This proposal removes the sentence referring to exemption for structures that are in use for seven days or less, as that does not comply with the International Building Code. The IBC overrules, and is more strict than, our Town ordinances. In other words, these proposed changes would bring us in line with the IBC, which we have to follow anyway.

M. Leavitt asked how much this will impact the work that the Building Inspector has to do. K. Anderson stated that he doesn't think it will have much impact – this change enforces the code more for retail and commercial scenarios, where they are not being inspected now but where the Building Code says that they should be. When it comes to residential, which is largely where event tents are being put up, they are exempt.

R. Hardy asked whether this effects or takes into account some of the smaller, 'bubble' tents that have appeared since Covid. K. Anderson replied that this would require that those get a building permit – it's a temporary structure that is not permitted, and will need a building permit if it's over 400 square feet.

R. Hardy further asked if there has been a change to the definition of temporary structures – is there a limit to 'temporary'? K. Anderson stated that the limit is 400 square feet, which is in the International Building Code. Anything less than 400 square feet would not need a permit. R. Hardy asked about the definition, time-wise. K. Anderson stated that no, that definition has not changed; the IBC does not recognize time.

D. Cleveland asked whether, since this change only applies to temporary structures, anything permanent would need a permit. K. Anderson stated that for anything permanent you would follow the standard protocol and get a building permit.

K. Anderson stated that what it comes down to is that these temporary structures, these tents, are

being occupied by the public, and therefore they should be safe, and be reviewed by our Building Inspector.

Public Hearing.

Joe Garruba, 28 Winchester Drive. Stated that he did try to look into the Building Code, to see what the definition was in the Building Code. He didn't spend a lot of time on it, but he didn't come up with the same references that Staff did. So, is it possible that the references in the Building Code that Staff feels are applicable could be posted somewhere, or distributed?

K. Anderson stated that yes, he can put the references that the Building Inspector pulled out on the Town website. However, this meeting will constitute the final vote regarding moving this proposed amendment to ballot as it is written – so the posted references will just be for informational purposes.

Public Hearing Closed.

Motion to send the proposed amendment #4 to ballot – motioned by D. Cleveland, seconded by V. Mills; motion passed unanimously.

5. K. Anderson stated that the fifth amendment has to do with rewriting our section regarding Floodplain Overlay Zones. This is information that is required per the National Flood Insurance Program. They reviewed our ordinance, and put in their recommended changes. We did get some enquiries from the public regarding why and how these apply to the Town. We are part of the National Flood Insurance Program, under FEMA. K. Anderson read language from an e-mail message that he received: “By having compliant regulations, your community will remain eligible to participate in the National Flood Insurance Program, once the new maps become effective.”

If this does not go to ballot, and/or if the ballot does not get approved, the ramifications are that it would be difficult if not impossible for homeowners to get flood insurance should they need it.

Public Hearing.

Joe Garruba, 28 Winchester Drive. Stated that, similar to his comments on the previous amendment, just having information for voters, to help them understand how to vote on this amendment, would probably be helpful. The e-mail read by K. Anderson referenced changed maps that will soon become effective – so he believes that those maps are done, and may be available to compare between the existing map and the proposed new map. So, he thinks it would be good if we could get our hands on what the maps are, that haven't become effective yet, so that we really understand, when people are voting, what's going to be changing.

Public Hearing Closed.

K. Anderson stated that there is an added section from the e-mail message which might help to clarify some of the public's comments, and that it might be pertinent to post the e-mail as it does clearly specify why the proposed changes are needed. The section of the e-mail reads “At this time, you do not need to be concerned with the adoption of new maps. The Office of Planning and Development will be back in touch with your community to help you through the process of adopting the new maps.” K. Anderson stated that he doesn't know that the maps are done as yet; he has not been able to find them. He will post the e-mail, which is from the Office of Planning and Development.

Motion to send the proposed amendment #5 to ballot – motioned by D. Cleveland, seconded by M. Leavitt; motion passed unanimously.

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209 6. K. Anderson stated that the sixth amendment has to do with Accessory Dwelling Units (ADUs).
210 This amendment was requested by our Town Zoning Board of Adjustment (ZBA), which
211 requested that ADUs be allowed by right. Nothing in our ordinance is changing, no stipulations or
212 criteria, but rather than having to go through the process, which involves going before the Zoning
213 Board for a special exception, an ADU would be allowed by right. ADU applications are currently
214 vetted by Town Staff; they don't get to the Zoning Board unless they meet all the criteria. If this
215 proposed amendment passes, in the event that there is a discrepancy, issue, or error, for
216 clarification the applications can be brought to the Zoning Board. No language or requirements
217 are changing; this would just allow ADUs by right.
218
219 B. Moseley mentioned that at the Planning Board's last meeting it was discussed that there is a
220 potential bill regarding ADUs before the State Legislature. K. Anderson confirmed that that is the
221 case; Staff was looking into the dates for it, and should that bill – which has to do with the number
222 and/or size of allowed ADUs – be enacted, we would have time next year to propose zoning
223 amendments to either be in line with or assist with that program. Right now there is nothing to act
224 on. It is on Staff's radar.
225
226 M. Leavitt asked whether it would be a good idea to add something to the explanation of this
227 proposed amendment indicating that ADU applications still have to be approved by Staff. K.
228 Anderson stated that an ADU requires a building permit; when an applicant comes in to fill out
229 their building permit, Staff reviews the process and criteria. M. Leavitt stated that people might
230 not realize that, and might think that they could construct an ADU without a building permit. K.
231 Anderson stated that we could add to the explanation of the proposed amendment, but not to the
232 amendment itself; B. Moseley pointed out that no addition at this point may change the intent of
233 the proposal.
234
235 K. Anderson stated that Staff is planning on sending out a voter's guide, and can get into the
236 details there. M. Leavitt pointed out that a statement showing that there will be no changes to the
237 building permit process for ADUs would be sufficient. B. Ming agreed with M. Leavitt's point.
238
239 K. Anderson will work on adding that to the explanation for the proposed amendment; it would
240 not require any change to the proposed amendment itself.
241
242 D. Cleveland asked if there have been any ADU cases before the Zoning Board in which the
243 special exception was not granted. K. Anderson stated that yes, there have been some. Typically
244 in those cases the applicant was stretching the definition of an accessory dwelling unit. K.
245 Anderson stated that if an ADU application with a confusing aspect comes to the Building
246 Department, the Building Inspector will send the application to the Zoning Board for their
247 determination.
248
249 D. Cleveland wondered whether, if we now say that ADUs are a right, some of the applications
250 that would have been denied will now be allowed to go forward.
251
252 K. Anderson replied that any areas of concern are identified, and brought to the attention of the
253 Zoning Board. Applications would still be vetted and looked at in detail by Staff; if Staff have any
254 questions or comments, the application would still get bumped to the Zoning Board.
255
256 M. Leavitt clarified that this proposal does not cut out the Zoning Board.
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258 K. Anderson added that this proposal is in the spirit of what the State is trying to do, in terms of
259 promoting additional housing in the area.
260
261

Public Hearing.

Joe Garruba, 28 Winchester Drive. Stated that he has two points on this one. The language in the beginning of the amendment uses the term ‘in-law apartments’ in parenthesis, and he thinks that’s a misnomer for what an ADU is. There is no restriction on rentals of ADUs, so at the very minimum the term ‘in-law apartment’ should be struck, because it conveys a sense that there is some sort of control on who is moving into the ADU, and that is not actually what is written in the ordinance. He would like to see the Board vote to strike that. The other thing he wanted to point out is how the proposed legislation in Concord will impact this proposed amendment. HB1291 is presently in the House. The bill increases the number of accessory dwelling units allowed by right from one to two. In addition, it would allow a 1000 square foot ADU – which, technically, is another house that would be on the lot. This basically ends Hollis’s two acre minimum zoning. Hollis’s only control, if HB1291 is to pass, would be to review the applications for ADUs for special exceptions at the ZBA, as we currently do. If HB1291 passes, and we take away our ability to review ADU applications as special exceptions, then we’ve lost the only tool that the State has allowed us to retain that we can use to manage how these things are coming into our Town.

K. Anderson stated that the way J. Garruba worded his argument, it sounds as if, if our proposed zoning amendment 6 passes, it gets rid of two-acre zoning. K. Anderson would like to make sure that J. Garruba clarifies that that is not the case.

J. Garruba stated that, in his opinion, in light of the proposed State legislation, the Town actually needs to tighten the requirements for ADUs, not loosen them. There is a battle for control of land-use regulation going on between the State and our Town. He believes that the Town’s Planning Board should be looking for ways to preserve the Town’s authority regarding developments like this. The Town’s proposed zoning amendment 6, as proposed, is intentionally ceding the very little power that we have from the State to control ADUs. He is asking the Planning Board not to send the proposal to ballot. A vote for this proposed amendment 6 is a vote, in his opinion, against the Hollis two-acre minimum, because of the combination with HB1291. Often he hears people claiming to defend the two-acre zoning, and he doesn’t see how someone who is voting to reduce the Town’s control of rental apartments in this manner can claim to support the two acre minimum. So, he is asking that the Board please vote to maintain maximum control of rental apartments in our Town, and vote not to send this proposed amendment to ballot.

Per a question from B. Moseley, K. Anderson stated that the public comments were misleading; he wanted to make sure that the Board was aware that it is the passing of the House Bill, not the passing of the proposed zoning amendment 6, which are two separate items, that was being referenced. If the House Bill passes, when it gets to us, we can address it. Right now it’s hearsay. We can’t evaluate it unless it has been passed.

Public Hearing Closed.

D. Cleveland asked where the House Bill stands right now. B. Ming responded that there was a special Speaker’s Committee for Housing that was created just to address the shortage of housing in New Hampshire, and this is something that came out of it. It’s very early in this bill’s history. He is not sure when the hearing will happen; they have just started the process. Even if the bill comes out of committee, it will still need to go to the floor of the House and have a vote, and then it will have to pass the Senate. If the Senate makes any changes, the House has to re-approve – so right now we’re essentially at step one.

K. Anderson stated that if the bill were to pass, before it’s actually implemented we will be going through this zoning amendment process next year. Should we need to add or subtract language to support the Town of Hollis, that would be the time to do it. He is reluctant to discuss or act upon something that is still early on in the process.

B. Ming pointed out that he believes the House Bill, should it pass, has a 2025 effective date. The bill is the work of a number of legislators; they didn't come up with that date for no reason. He doesn't know what the reason is, but there will be time to address it if the bill passes. The bill has a lot of discussion to go through, and will potentially be changed.

D. Cleveland stated that the bill, then, essentially has no bearing on the particular proposed zoning amendment that we are discussing at this Planning Board meeting tonight.

K. Anderson found HB1291 on line; the effective date would be July 1st, 2025. We would be able to address any major concerns that might affect the Town of Hollis during next year's zoning-change period.

Per a question from V. Mills, K. Anderson stated that the proposed zoning amendment 6 did come to us from the Zoning Board. They are endeavoring to simplify the process, as the ADU applications that they have been seeing meet the criteria, and have been vetted by Staff. The idea is to take away the additional burden of cost and of a month's delay to go before the Zoning Board.

Motion to send the proposed amendment #6 to ballot – motioned by B. Ming, seconded by V. Mills; motion passed unanimously.

7. K. Anderson stated that the seventh proposed change has to do with amending the solar energy section of the ordinance. Currently we have a maximum height of 10 feet for ground-mount solar arrays; this amendment would change that to a maximum of 15 feet. This was requested by the Hollis Energy Committee, and would be to get the optimum exposure and angle for the solar panels. We do have provisions in the solar energy section of the regulations that require screening, and we will still be reviewing applications for adequate screening. He does not see this as a change in that regard, but it might make it easier for applicants to get effective arrays.

B. Moseley stated that it's his impression that the Board's main question for every ground-mount solar application, regardless of height, is whether it will be screened adequately or not. If an array is proposed to be eight feet high, and does not have proper screening, the Board rejects it. Staff concurred.

Public Hearing.

Adam Jacobs, 15 Crestwood Drive. Stated that he is also a member of the Hollis Energy Committee. He stated that the calculation of 15 feet is to have clearance for four to five feet of snow on the bottom, and that if you take two 2.1 meter panels, which is a small array, you get about 14 feet. The present ordinance is quite limiting, so he urges the Board to send this proposed amendment to vote.

Public Hearing Closed.

Motion to send the proposed amendment #7 to ballot – motioned by D. Cleveland, seconded by M. Leavitt; motion passed unanimously.

Petition Zoning Ordinance Change. B. Moseley reiterated that this will be going to ballot, as it is a petition duly authorized by our codes; the Board will have the opportunity to vote as to whether or not they support it.

Joe Garruba, 28 Winchester Drive, author of the petition. Stated that this proposed amendment changes Section XVIII [J. Garruba stated this as Section 17], Workforce Housing. Stated that the amendment is intended to protect water and natural resources, and to clarify the purpose of the

ordinance. Changes to the purpose paragraph include removing language which stated that the purpose was to encourage development of workforce housing. The language is replaced with words indicating that the purpose is to promote health and general welfare by providing restrictions which are compliant with the State statute on workforce housing. Changes to subsection D, which is the Conditional Use Criteria, include the addition of a statement indicating that proposed projects must comply with all of the environmental and natural resource restrictions in the ordinance, without the benefit of waivers. In addition, proposals must meet the requirements related to environmental protection and water supply restrictions of the ordinance. Project cost estimates of high-density projects will be required for review, to ensure that no additional units beyond what is required by State statute are permitted. It's important that the purpose section of the ordinance be worded correctly, since appeals of project denials by this Board will be heard by the ZBA, the Superior Court, or the Housing Appeals Board. If there is ambiguity in any of the written restrictions, those appeals boards are required to look at the purpose of the ordinance when making their decisions. If the purpose of the ordinance is written to say we're trying to encourage development of housing with this ordinance, it's pretty much going to guarantee that, if this Board makes a denial, and it gets appealed, that's going to be a very big challenge to overcome for our Town Attorney in the sense of defending the decisions that you guys are going to make. So, the way the purpose section is presently worded, those denials would likely be overturned. So for this reason, it's important that we address the weakness in our ordinance, or the will of this Planning Board and the voters at large is likely to be subverted through the appeals process. So he is asking the Board to vote to include their support of the amendment on the ballot this year.

There were no questions from the Board.

Public Hearing.

There were no speakers on this proposed amendment.

Public Hearing Closed.

B. Moseley stated that included in the Board members' meeting packets was a privileged and confidential excerpt from our Town Attorney, which B. Moseley summarized. In regard to this petition ordinance change, the Town Attorney makes the comment that were the amendment to pass it may either be unenforceable or outright unlawful, and unable to survive a legal challenge. Staff concurred with that summary of the Town Attorney's communication.

Vote for the Planning Board to support this petition zoning ordinance change – The Board was unanimous in rejecting support for this petition zoning ordinance change.

ADJOURNMENT:

Motion to adjourn at 7:53pm – motioned by M. Leavitt, seconded by V. Mills; motion passed unanimously.

Respectfully submitted,
Aurelia Perry,
Recording Secretary.

NOTE: Any person with a disability who wishes to attend this public meeting and who needs to be provided with reasonable accommodation, please call the Town Hall (465-2209) at least 72 hours in advance so that arrangements can be made.