

HOLLIS PLANNING BOARD MINUTES
October 6, 2020
Final

PLANNING BOARD MEMBERS PRESENT: Bill Moseley – Chairman; Doug Cleveland – Vice Chairman, Jeff Peters, Matt Hartnett, Rick Hardy, Julie Mook, and David Petry (Ex-Officio for Selectmen)

ZONING BOARD OF ADJUSTMENT MEMBERS PRESENT: Brian Major – Chairman; Jim Belanger – Vice Chairman, Stanley Swerchesky, Drew Mason, Meredith West

ABSENT: Ben Ming, Chet Rogers

STAFF PRESENT: Mark Fougere, Town Planner; Evan Clements, Assistant Planner

THIS MEETING WAS CONDUCTED VIRTUALLY WITHOUT A PHYSICAL LOCATION IN COMPLIANCE WITH GOVERNOR SUNUNU’S EMERGENCY ORDERS #12, 16, & 17

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

2. APPROVAL OF PLANNING BOARD MINUTES:

3. DISCUSSION AND STAFF BRIEFING

- a. Committee Reports – none
- b. Staff Report – none
- c. Regional Impact – none

4. ZONING WORKSHOP – The Planning Board hosted the Zoning Board of Adjustment for a Workshop Meeting to discuss possible changes to the Hollis Zoning Ordinance.

This meeting was held completely electronically with all members participating via Zoom from individual locations.

26:49 meeting starts

M. Fougere began by outlining the required dates for zoning amendments. He suggested that the Planning Board hold the first public hearing for the zoning amendments in the beginning of December. He then introduced the proposed ideas that staff has to date:

- Workforce Housing
- Stormwater/drainage
- Sign Code
- Down zoning Rural Lands Zone to 3 acres
- Aquifer Protection

J. Belanger brought up amending the rules for encroaching into required setbacks.

Workforce Housing

M. Fougere noted that the Nashua Regional Plan Commission (NRPC) did a regional housing needs analysis that found that Hollis needs to add over 100 affordable housing units. He noted that the Town’s only responsibility is to provide a realistic opportunity for Workforce Housing projects. The proposed changes would allow for more flexibility in site design and density bonus to make potential projects viable.

50 D. Petry stated that if the report from NRPC isn't backed by state statute then he believes that the
51 Town should not consider it.

52

53 M. Fougere responded that the NRPC is required to do the report.

54

55 D. Petry stated that the Town was not obligated to provide the number of affordable housing units the
56 report says we are in a deficit of.

57

58 M. Fougere explained that the Town does not need to build anything but we do need an Ordinance in
59 place that provides for the realistic opportunity to allow for the construction of these units.

60

61 D. Mason asked specifically why the current Workforce Housing Ordinance is not in compliance.

62

63 M. Fougere explained that the Town Attorney reviewed the changes that occurred in 2020 and it was
64 his belief that the changes created real obstacles to Workforce Housing projects. He noted the change
65 to add a 100' perimeter buffer to the Multi-family zone. There is no rationale for that site design
66 requirement but limits the amount of area of a lot that can be developed.

67

68 R. Hardy noted that any project would need to adhere to the Rural Character Ordinance.

69

70 M. Fougere stated that was correct.

71

72 **Stormwater/drainage**

73 M. Fougere explained that the goal of this proposal was to move all drainage requirements out of the
74 zoning ordinance and into a comprehensive standalone regulation. This would mean that the zoning
75 amendment proposal would be to delete all references to drainage from the zoning ordinance. The
76 existing requirements are confusing and require over engineering for small developments that do more
77 harm than good.

78

79 B. Moseley asked about how the amendment would occur.

80

81 M. Fougere stated that it would be a comprehensive amendment and the Town Engineer would also
82 be working on the new regulation so if the amendment passes the Planning Board can hold a public
83 hearing and adopt the new drainage regulation so there would not be a lapse in regulation.

84

85 D. Petry noted that once it becomes a regulation an applicant can ask for a waiver whereas before it
86 would require a variance.

87

88 M. Fougere stated that a drainage waiver should be properly vetted by the Town Engineer before being
89 considered.

90

91 E. Clements also noted that the requirements for a drainage waiver to be considered can be put directly
92 into the regulation itself. This can allow for greater scrutiny requirements to approve a waiver.

93

94 R. Hardy suggested that the Town consult some engineers who represent applicants in the area for
95 their input on how to tweak our own existing requirements to reduce the impact of our currently
96 regulations.

97

98 **Sign Code**

99 M. Fougere explained that staff had been receiving a lot of calls relating to the political signs being up
100 for election season. The current regulation for political signs is unenforceable and there is a state RSA

101 that regulates when political signs can be put up and when they have to come down. The proposal is
102 to change the existing regulation to reference the state statute and remove the local regulation all
103 together.
104

105 M. Fougere also explained that the entire sign code would need to be re-written at some point soon
106 due to a U.S. Supreme Court decision that prohibits regulation of signage based on the content of the
107 sign.
108

109 J. Belanger asked about regulating the color of signs in the Historic District and if changes to the sign
110 code would affect that.
111

112 M. Fougere stated that he believed that would not be affected. He noted that temporary signs can be a
113 challenge but they must be regulated uniformly, regardless of the content of the sign.
114

115 D. Mason asked about traffic and traffic related signs.
116

117 M. Fougere stated that traffic signs are usually exempt from the sign code because they have specific
118 specifications that must be adhered to for public safety reasons.
119

120 D. Cleveland asked about the definition of a temporary sign.
121

122 M. Fougere stated that it was a sign that could not be up for more than 30 days.
123

124 B. Major stated that a temporary sign was defined based on the materials used for the sign.
125

126 M. Fougere explained that the sign code update would have to be done in two phases. Political signs
127 this zoning season then a more comprehensive update next year.
128

129 **Rural Lands down zoning to 3 acres**

130 M. Fougere explained this was the area to the west of Federal Hill Road and about 20% of the area on
131 the west side of Town.
132

133 D. Cleveland noted that a lot of the land in area is in conservation in one form or the other.
134

135 B. Major asked if there was any Taking considerations to worry about.
136

137 M. Fougere did not believe so. The Town is finding out how challenging the land in this area of Town
138 is to develop.
139

140 B. Major asked if there was any Town in Hillsborough County that has 3 acre zoning in any part of
141 their community. It was his understanding that Hollis had 2 acre zoning because in the past you needed
142 enough land area to support a well head and leach field and a separate second leach field when the
143 original failed. He asked about current septic practices.
144

145 M. Fougere stated that with good soils and no zoning the state will allow you a lot as small as 30,000
146 SF with a septic system and a well.
147

148 D. Petry stated that he believes that the challenging land will self-police itself. If a developer needs a
149 lot to be bigger based on the soils and other factors they will do it themselves.
150

151 J. Belanger stated that the Town currently does not have a requirement to do test pits for two possible
152 septic locations but maybe the Town should consider it.

153

154 M. Hartnett stated that the state regulates septic systems and issues a state permit. He then asked if you
155 need a new permit to replace a failed system.

156

157 E. Clements noted that state statute allows a failed septic system to be replaced in the same location
158 without local approval.

159

160 D. Petry stated that it may make sense to leave the area requirement as 2 acres since the rationale for
161 the current area requirement is outdated.

162

163 R. Hardy stated that would consider a change based on geologic conditions and not that the areas is
164 just "tough"

165

166 B. Moseley stated that we will keep this idea on the back burner and look into it further at a later time.

167

168 **Housing for Older Persons**

169 D. Petry explained that the density was changed unnecessarily and should be changed back to make it
170 more restrictive. This is why Cobbett Lane is as dense as it is and the new proposal on Silver Lake is
171 also so dense. He believed that the consequences were unexpected.

172

173 R. Hardy and J. Belanger agreed.

174

175 D. Mason noted that the change was proposed by the Zoning Board and done in response to the
176 difficulties of the flea market property on Silver Lake.

177

178 D. Petry stated that zoning changes should not be done for one project.

179

180 M. Fougere noted that this kind of zoning is not required by state statute and can be removed if the
181 Town so chooses. He did note that the market spoke that the old density did not work but when it was
182 changed there was development interest. He suggested that another alternative would be to remove
183 this section of the zoning ordinance all together.

184

185 D. Petry stated that we should be following the Master Plan and be even handed.

186

187 M. Fougere stated that there is some other language in the section that needs to be cleaned up so list
188 how many units can be built in a year.

189

190 B. Major asked how many dwelling units are currently in Town.

191

192 M. Fougere stated he didn't have it in from of him but it is approximately 2,500 to 3,000 units.

193

194 D. Petry wanted to change the total amount of units in a year to 10% of the total housing units in Town.

195

196 B. Major asked about the setback requirement for these projects and could they be placed farther from
197 the road.

198

199 M. Fougere stated that the two projects on Runnells Bridge Road are the same distance from the road.
200 It is something that can be looked into.

201

202 **Aquifer Overlay Zone**

203 D. Petry is recommending that the underground storage of petroleum products be prohibited.

204

205 D. Mason stated he thought that was overly restrictive. In 2016 Morrin's Landscaping wanted to add
206 underground tanks and brought in experts that stated that underground storage was safer then
207 aboveground storage.

208

209 D. Petry referenced the model groundwater protection ordinance from the state that calls out areas in
210 Hollis that need to be protected. He believes that the change to the ordinance in 2017 was an
211 overreaction to the Morrin's Landscaping case of 2016.

212

213 **Side Yard Setback Encroachment via Special Expectation**

214 J. Belanger explains that to encroach into a side yard setback currently requires a Variance and proving
215 hardship to encroach into the side yard setback is challenging. For example, a property owner wants
216 to build a garage but doesn't have the room without encroaching. Even if his neighbor is okay with the
217 garage being closer to the property line than normally allowed, the property owner doesn't "need" the
218 garage and even if the encroachment is for two feet, there is no hardship. Even if it makes sense the
219 ZBA has to deny the request on the grounds there is no hardship.

220

221 J. Belanger recommended that if an applicant has written permission from the abutter then the Board
222 could act on the request as a Special Exception and not a Variance.

223

224 D. Petry asked about the future neighbor who buys the abutting property. Is there a note on the deed?
225 How do we protect the new buyer and new neighbor?

226

227 J. Belanger responded that the situation is like an easement on the property. The new neighbor has no
228 say in the situation but is aware of the location of the garage when he buys the property. He clarified
229 that he is no suggesting that they allow an applicant build on the property line, this would be for a
230 small encroachment. He noted that the Town had a similar issue with pools and changed the HZO so
231 that pools were not considered structures.

232

233 D. Petry asked if this change was in the HZO currently, how many cases would have been approved,
234 rather than denied.

235

236 J. Belanger responded with maybe two, but did not have a concrete number. He stated that the rule
237 would be used by the ZBA on a case by case situation.

238

239 D. Petry responded that it would put pressure on the ZBA to be consistent with applying the rule.

240

241 D. Mason stated that he had a concern with the Special Exception because if the requirements are met
242 then the ZBA must grant the request. The rule would need to be worded so the ZBA would not be
243 required to grant the approval.

244

245 D. Petry stated you would have to add language such as at the Board's discretion.

246

247 D. Mason responded that would leave the rule up to legal challenge.

248

249 D. Petry stated that us why the rule would have to be applied consistently.

250

251 B. Major stated that the ZBA has been able to decide that a proposed encroachment has been Di
252 Minimis in the past.

253

254 R. Hardy asked about requiring a screening easement as part of allowing the encroachment to buffer
255 the neighbor's property.

256

257 D. Mason stated that the ZBA has put conditions on approvals for encroachment before.

258

259 R. Hardy asked how it is enforced. Is there an easement, is it recorded?

260

261 D. Petry stated that a note would be put on the building permit and the building inspector would be
262 responsible for enforcing the condition.

263

264 R. Hardy asked if the neighbor is given copies of the decision for their records since it affects their
265 property as well.

266

267 S. Swerchesky stated that if someone buys the abutting property and sees that a garage has encroached
268 into the setback for example, then it is the buyer's responsibility to do their homework and see what
269 was approved.

270

271 M. West recommended using a Notice of Made of Record for the affected properties and that this
272 would come up in a Title search. A screening requirement for the benefit of the abutting property
273 would come up and the future owner of the neighboring property would be able aware of their rights.

274

275 B. Moseley summarized the conditions of the proposal:

276

277

278

279

280

281

282

283

284

285

286

287

288

289 **6. Other Business –**

290

291

292 **7. ADJOURN**

293

294

There being no further business, B. Mosely presented a non-debatable motion to adjourn.
Motion seconded by. D. Petry and unanimously approved. Meeting adjourns at 8:55 PM.

295

Respectfully submitted,

296

Evan J. Clements,

297

Assistant Planner