

APPROVED APPROVED APPROVED

Planning Board Meeting
7:00 p.m. Town Hall
Wednesday, January 24, 2018

Members Present: Darcy Horgan, Rich Landry, Margaret Sofio, Tom Hammer, Geof Potter, Kate Murray, Bill Stewart

Others Present: none

Members Absent: none

Chair Darcy Horgan called the meeting to order at 7:05 p.m.

1. Approve minutes of the January 17, 2018 meeting

Ms. Margaret Sofio motioned to approved the minutes of January 17, 2018 special Planning Board meeting as written. Mr. Tom Hammer seconded. Motion carried unanimously.

2. Vote on new definition for Lot Coverage

Members updated those members who were absent from the January 17, 2018 discussion about the draft changes to the Lot Coverage definition. The current ordinance states:

Lot Coverage: *That percentage of the plot or land area covered by the principal and accessory building areas. This includes the area of in-the-ground pools as well as above-the-ground pools that are more than 18" high and are enclosed with a deck or platform.*

Members discussed how decks, with spacing between boards and built over a pervious surface, would be classified in the new impervious surface definition, noting that NH DES generally considers decks to be imperious.

Mr. Landry asked, and members responded, that the onus would be on the property owner's engineer to prove that a deck may be excluded from the impervious surface calculation. While the need for an engineer is a higher hurdle, Mr. Hammer maintained it is necessary to protect the town and environment from disingenuous actions.

Members agreed that the new definition answers the concerns they hear from the public. It will ultimately be the public's decision whether they want to accept the restrictions that result from the tighter ordinance.

Chair Horgan motioned to put forward for vote at the Town Meeting a change in the lot coverage definition, section 2.3.38 to read:

Lot Coverage: *That percentage of the plot or land area covered by impervious surfaces including but not limited to paved, bricked, or gravel areas, buildings or other structures, decks, patios, driveways, walkways, sheds, tennis courts, swimming pools and hot tubs.*

Mr. Hammer seconded the motion. Motion carried by unanimous vote.

3. Vote on Impervious Surface definition

2.3.35 Impervious Surface

Members updated those members who were absent from the January 17, 2018 discussion of the working definition for Impervious Surface, which is:

A modified surface that cannot effectively absorb or infiltrate water, including but not limited to, roofs, decks, patios, sheds, detached garages, driveways, parking areas, walkways, tennis courts, swimming pools and hot tubs, unless such structures have been designed to effectively allow for water to infiltrate or be absorbed.

Mr. Landry approved of the language and noted that the definition would allow an entire house that is built with an infiltration system to handle roof runoff to be excluded from the impervious surface calculation. While that scenario would meet the objective for runoff water, it may reduce the effectiveness of the the Lot Coverage ordinance to control density. Members agreed that Density and Dimensional Regulations section of the ordinance would address, at least in part, density concerns. Mr. Bill Stewart observed that hypothetically, based on the working definition, if every built surface is infiltrated, lot coverage would be zero.

Members agreed to separately address roofed structures in the definition to avoid any unintended density consequences.

Chair Horgan motioned to add the following new definition, assign the number as noted, and renumber all subsequent definitions for Section 2.3.35, Impervious Surface, to read as:

Impervious Surface: *A modified surface that cannot effectively absorb or infiltrate water, including but not limited to, decks, patios, driveways, parking areas, walkways, tennis courts, swimming pools and hot tubs, unless such structures have been designed to effectively allow for water to infiltrate or be absorbed. Roofs are always considered impervious surfaces regardless of infiltration systems.*

Mr. Hammer seconded the motion. Motion carried, unanimously.

4. Ordinance Change Discussion

Inn and B&B Discussion (not AirB&B or VRBO)

Lead Member: Geof Potter

Despite the presence of an inn in New Castle, the ordinance makes no mention of them, although it does describe B&Bs and rooming houses.

One idea would be to simply add the word “inn” to the existing ordinance.

Mr. Geof Potter reviewed inn definitions from surrounding towns and noted that the significant question is the number allowable guest rooms. Mr. Hammer believes that Building Code would trigger when the scale of the facility exceeds that of an inn and becomes a hotel. Other potential differences between an inn and a hotel or B&B are whether an owner is on site, the presence of kitchen equipment, and the length of guest stays.

Reflecting on whether the ordinance needs to address inns (as opposed to remaining silent) Mr. Landry read page Z-14 of the ordinance which indicated that “any use not specifically allowed as a permitted use, or as a use permitted by special exception, is prohibited.”

The probability of imminent inn applications is low. Consequently, the Board agreed to table the issue until the state produces its AirB&B guidelines to inform the discussion.

Woodland Buffer

Lead Member: Rich Landry

Mr. Landry questioned whether the freshwater Woodland Buffer zone should be changed or eliminated. Mr. Stewart described the origin of section 9.2.8.6 of the town ordinance, Natural Woodland Buffer, noting that the language is from state guidelines however, the state restricted the buffer to tidal lands while the town applies the 150’ woodland buffer to all wetlands. Given the preponderance of wetlands in town, Mr. Landry expressed his concern that the ordinance was overly restrictive. The burden of the Woodland Buffer is lessened by Section 9.2.8.6.c of the ordinance that allows for a 25’ envelope surrounding the building footprint for the building, septic system, and driveway, and a 10’ envelope for accessory structures, but does impact landscaping. Chair Horgan explained that the grid system is not as restrictive as it appears.

Conservation Commission Chair, Lynn McCarthy, indicated to Chair Horgan her preference to retain the Woodland Buffer as written. Members agreed not to propose a change to the Woodland Buffer section.

5. Legal Opinion about bias and trespass

Chair Horgan described the feedback she received from her recent conversation with the municipal attorney about Board Members’ participation in public hearings for projects that will potentially appear before the Planning Board. Members need to be careful not to demonstrate a point of view that could be interpreted as bias prior to the Planning Board hearing. Further, Chair Horgan has read that Members could be precluded from offering public comment during Planning Board hearings, even after recusing themselves, because their relationship to the voting members may (or be seen to) exert influence.

Chair Horgan asked Members to review their handout that describes the process for gaining access to private property for the purpose of inspection.

6. Timeline for ordinance changes

Members agreed to meet again on February 7, 2018 at 5:30 p.m.

Timeline considerations:

February 9: notice for Public Hearing

February 21: February Planning Board meeting and Public Hearing

March 19: last day for a first Public Hearing

March 22: last day to notice April 2 Public Hearing
March 28: March Planning Board meeting
April 2: last day for final Public Hearing
May: Town Meeting ballot

7. Adjourn

Ms. Sofio moved, and Mr Hammer seconded, to adjourn the meeting. Meeting adjourned at 9:02 p.m.

Respectfully Submitted,

Anne Miller, Secretary