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3 **MINUTES OF THE NEW CASTLE PLANNING BOARD**
4 **Wednesday, March 27th, 2024 – 7:00 p.m. (Macomber Room)**

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7 **Public Hearing on a proposed amendment to Zoning Ordinance 6.8.2, Requirements for**
8 **Fences and Walls, to add language to address fences placed on property lines.**

9
10 **Public Hearing on a proposed amendment to Zoning Ordinance 7.4.1 adding fences and**
11 **walls in a section of the Zoning Ordinance dealing with non-conforming buildings and**
12 **structures.**

13
14 **Public Hearing on a proposed amendment to Zoning Ordinance 2.3.38 changing the term**
15 **being defined from Grade to Grade Plane and subsequent changes in other sections of the**
16 **Zoning Ordinance where Grade is used.**

17
18 **Public Hearing on a proposed amendment to Zoning Ordinance 3.1.1 clarifying which**
19 **district the area east of Ocean Street falls into.**

20
21 **Public Hearing on a proposed amendment to Zoning Ordinance 2.3.65 to add a definition**
22 **of Short Term Rental.**

23
24 **Public Hearing on a proposed amendment to Zoning Ordinance 4.0 District Regulations to**
25 **codify that Short Term Rentals are now, and will continue to be a prohibited use in all**
26 **districts in New Castle.**

27
28 **Public Hearing on the revised Master Plan before a Planning Board vote on acceptance.**

29
30 **Members Present:** Anne Crotty; Nancy Euchner; Lorne Jones; Bill Stewart, Interim Chair.

31
32 **Members Absent:** Darcy Horgan, Chair; Rich Landry; Kate Murray.

33
34 **Others Present:** Sandra Bisset; Randy Bryan; Larry Doyle; Jane Finn; Mary Pat Gibson;
35 Monica Kieser, Hoefle, Phoenix, Gormley & Roberts, P.A.; David McArdle; Iain Moodie; David
36 Severance; Curt Springer; Phyllis Stibler; Sara Varela.

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38
39 Interim Chair Stewart called the meeting to order at 7:03 p.m. Noting a quorum, Interim Chair
40 Stewart indicated that the voting members are himself, Ms. Euchner, Mr. Jones and Ms. Crotty.

41
42 **1. Public Hearing on a proposed amendment to Zoning Ordinance 6.8.2, Requirements for**
43 **Fences and Walls, to add language to address fences placed on property lines, as depicted**
44 **below:**

45
46 (~~Strike through~~ means deleted text, **bolded text means added text**):

6.8 FENCES AND WALLS

6.8.2 Requirements for Fences and Walls:

1. Fences and walls must not be detrimental to the character of the surrounding neighborhood.
2. Fences and walls may not obstruct sight distances at driveway intersections or otherwise create unsafe conditions.
3. Fences and free-standing walls greater than six (6) feet in height shall not be permitted even by Special Exception if an abutter objects to the increased height.
- 4. Fences and walls may be constructed on a surveyed property line or on a property line agreed on by both neighbors, in writing, which is recorded at the Registry of Deeds and runs with the properties. Maintenance stipulations must be made part of the written agreement. All other fences and walls must be placed at least 18" or greater from the property line.**

Interim Chair Stewart noted that this amendment is designed to avoid disputes over the placement of fences and walls on or near the property line. It does not require the property to be surveyed, only for the neighbors to agree on the property line.

Interim Chair Stewart opened the public hearing at 7:33 p.m. Monica Kieser of Hoefle, Phoenix, Gormley & Roberts, P.A., asked if the Registry of Deeds would accept these written maintenance agreements. Ms. Crotty confirmed that the Registry does accept these. Larry Doyle, 17 Steamboat Lane, asked why the Town would need this regulation if there is already a state regulation in place. Interim Chair Stewart responded that the fence requirements are already in the Town ordinance, and this amendment would seek to avoid disputes between neighbors before they occur. Curt Springer, 98 Cranfield Street, added that the State law addresses a neighbor's objections to the height of a fence, but it does not address how close the fence can be to a property line. He was in favor of this amendment and noted that if the property line is surveyed, it would not be necessary to talk to one's neighbors. Interim Chair Stewart clarified that with this amendment, a resident can put a fence on their property line if it is surveyed, or if there is a maintenance agreement with the neighbor that gets recorded.

Sara Varela, 258 Wentworth Road, expressed concern about having the maintenance agreement recorded with the Registry of Deeds. She said that once you sell your property, you are committing the next buyers to whatever maintenance plan you have agreed. Interim Chair Stewart clarified that this is just an easement to allow access to maintain the fence.

Mary Pat Gibson, 91 Cranfield Street, asked if it would be allowed for an abutter to extend a fence that was constructed by a neighbor on the property line. Interim Chair Stewart answered that if the fence is not already existing, he believed it would have to follow the proposed ordinance, if the ordinance passes.

Hearing no further comments from the public, Interim Chair Stewart closed the public hearing at

1 7:42 p.m.

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3 *Ms. Crotty made a motion to advance the Zoning Ordinance amendment as written above to a*
4 *warrant article at the Town Meeting on May 14, 2024.*

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6 Ms. Euchner seconded. Motion carried unanimously by a vote of four to zero.
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8
9 **2. Public Hearing on a proposed amendment to Zoning Ordinance 7.4.1 adding fences and**
10 **walls in a section of the Zoning Ordinance dealing with non-conforming buildings and**
11 **structures as depicted below:**

12
13 (~~Strike through~~ means deleted text, **bolded text means added text**):

14
15 7.0 Non-Conforming Lots, Buildings, Structures, and Uses

16 7.4 Discontinuance

17
18 7.4.1 Any and all non-conforming buildings, structures, **fences, walls**, land or uses of the same,
19 which is (are) discontinued, or which is (are) partially or wholly destroyed by fire, explosion,
20 storm, tides or other acts of God, may be resumed or restored and operated in its (their) former
21 non-conforming status if the same is done within two (2) years thereafter.
22

23
24 Interim Chair Stewart opened the public hearing at 7:46 p.m. Mr. Springer pointed out that
25 fences and walls are not considered structures, which is why they were not included in this
26 section before. Interim Chair Stewart agreed and said that this proposal makes clear that if you
27 have a pre-existing, non-conforming fence or wall that gets destroyed, you can rebuild it in its
28 former state within two years.
29

30 Iain Moodie, 62 Portsmouth Avenue, asks if this amendment includes voluntary destruction
31 through a demolition permit. He felt that if someone is demolishing a structure, the new structure
32 should have to follow the present codes. Mr. Moodie asked if there was another ordinance that
33 states that one cannot rebuild a structure that was voluntarily demolished. Ms. Crotty cited
34 Section 7.3.1 regarding the replacement of a non-conforming structure. This ordinance states that
35 the replacement of such a structure must either conform to the regulations, or the non-
36 conforming portion must be no more non-conforming than what was destroyed.
37

38 Randy Bryan, 34 Wentworth Road, stated that the ordinance provides the ability to replace a
39 fence in-kind, which reinforces the idea of having a two year time frame to reconstruct non-
40 conforming structures.
41

42 Hearing no further comments from the public, Interim Chair Stewart closed the public hearing at
43 7:54 p.m.
44

45 *Ms. Crotty made a motion to advance the Zoning Ordinance amendment as written above to a*
46 *warrant article at the Town Meeting on May 14, 2024.*

Ms. Euchner seconded. Motion carried unanimously by a vote of four to zero.

3. Public Hearing on a proposed amendment to Zoning Ordinance 2.3.38 changing the term being defined from Grade to Grade Plane and subsequent changes in other sections of the Zoning Ordinance where Grade is used, as depicted below:

(~~Strike through~~ means deleted text, **bolded text means added text**):

2.0 Definitions

2.3 Definitions

~~2.3.28 Grade: With reference to a building or structure, means the average elevation of the ground adjoining the building or structure on the lowest side. When the ground slopes away from the exterior walls, the grade shall be established by the lowest points within the area between the building and the lot line or, when the lot line is more than six (6) feet from the building, between the building and a point six feet from the building.~~

2.0 Definitions

2.3 Definitions

2.3.28 Grade Plane: The grade plane is a reference plane representing the average of the finished ground level adjoining the building at its exterior walls. Under conditions where the finished ground level slopes significantly away from the exterior walls, that reference plane is established by the lowest points of elevation of the finished surface of the ground within an area between the building and lot line, or where the lot line is more than 6 feet (1829 mm) from the building, between the building and a line 6 feet (1829 mm) from the building.

2.3.32 Height: As applied to a building, means the vertical distance measured from the building line at the lowest grade **plane** on any side, to the highest point of the roof, excluding chimneys and similar projections that are usually appurtenant to the building.

4.2 Density and Dimensional Regulations

Table 1: Density and Dimensional Regulations, New Castle, N.H.

F Max. Building Height 2 ½ Stories above grade **plane**, not to exceed 32 ft.

Interim Chair Stewart explained that the purpose of this amendment is to adequately capture what grade is and how it is being enforced by the Building Inspector.

Interim Chair Stewart opened the public hearing at 7:59 p.m. Mr. Moodie commented that the proposed language is a reduction to how the ordinance has been enforced for the past 20 years. The proposed language is more in line with the International Building Code, but is less restrictive and could allow for much larger structures, which is not conducive to the Master Plan and maintaining the character of the Island. He felt that the proposal is reducing an ordinance that the Town had fought hard for.

Attorney Kieser noted that it is difficult for engineers and architects who work in multiple towns, as they rely on the International Building Code. She felt that the current wording introduces a lot

1 of uncertainty into the construction process. Attorney Kieser suggested an ordinance that is more
2 consistent with general standards and the International Building Code, and does not punish
3 people who do not have level lots. David Severance, 24 Elm Court, agreed that the existing
4 language does not make sense, though he felt that the proposal does not address artificially
5 changing the grade. There was confusion with the new definition. Mr. Bryan thought that the
6 grade plane referred to the previous grade level.

7
8 Hearing no further comments from the public, Interim Chair Stewart closed the public hearing at
9 8:08 p.m. Ms. Crotty pointed out that the second sentence of the proposed section 2.3.28 adds
10 confusion, as it brings up a new term “reference plane” without defining it.

11
12 *Ms. Euchner motioned to table the discussion on Zoning Ordinance amendment 2.3.38. Ms.*
13 *Crotty seconded. Motion carried unanimously by a vote of four to zero.*

14
15 **4. Public Hearing on a proposed amendment to Zoning Ordinance 3.1.1 clarifying which**
16 **district the area east of Ocean Street falls into, as depicted below:**

17
18 (~~Strike through~~ means deleted text, **bolded text means added text**):

19 3.1 Establishment of Districts

20 3.1 Establishment and Designation of Districts

21 3.1.1 Residential District (R-1): The Residential District includes the central densely
22 settled area of New Castle of primarily residential development. Its purpose is to accommodate
23 and support single and two family residential and permitted accessory uses consistent with the
24 developed village center.

25
26 The District is bounded as follows: beginning with and including Goat Island, then easterly to
27 include all land between Portsmouth, Cranfield, **and** Main ~~and Ocean~~ Streets and the Piscataqua
28 River; also including all land bounded between Wentworth Road, Pit Lane and Cranfield Street;
29 also including land with frontage on the following streets: Portsmouth Avenue, Cranfield Street,
30 Laurel Lane, Grist Mill Lane, Davidson Street, Walton Road, Quarterdeck Lane, Mainmast
31 Circle. Excluded from the Residential District is that land designated as the Mixed Use District
32 as defined in Section 3.1.5.

33
34
35 Interim Chair Stewart explained that this change is recommended to eliminate contradictory
36 language with Zoning Ordinance Section 3.1.3. Ocean Street was claimed by R-3, R-1, and SA
37 (Sensitive Areas Overlay District), so this amendment cleans up the language to make it clear
38 that Ocean Street is part of the R-3 Residential District. Interim Chair Stewart noted that R-3 is
39 more restrictive than R-1, and the SA overlays Ocean Street regardless of whether it belongs to
40 R-3 or R-1.

41 Interim Chair Stewart opened the public hearing at 8:16 p.m. Mr. Springer noted that this will
42 still be two acre zoning, but the amendment will remove the ambiguity of which district Ocean
43 Street belongs to. Mr. Bryan asked if the Ocean Street property that the Town purchased last year
44 is included in the special overlay district. Interim Chair Stewart confirmed that it is.

45
46 Hearing no further comments from the public, Interim Chair Stewart closed the public hearing at

1 8:25 p.m. It was noted that the map in the Zoning Ordinance book will need to be re-colored if
2 the amendment passes at the Town Meeting.

3 *Ms. Crotty made a motion to advance the Zoning Ordinance amendment as written above to a*
4 *warrant article at the Town Meeting on May 14, 2024.*

5
6 Interim Chair Stewart seconded. Motion carried unanimously by a vote of four to zero.
7
8

9 **5. Public Hearing on a proposed amendment to Zoning Ordinance 2.3.65 to add a**
10 **definition of Short Term Rental, as depicted below:**

11
12 (~~Strike through~~ means deleted text, **bolded text means added text**):
13

14 **2.3.65 Short Term Rental: The rental, for a fee, of any dwelling, dwelling unit, residential**
15 **living unit, accessory dwelling unit, or portion thereof, for occupancy of fewer than 30**
16 **consecutive days.**
17

18 Interim Chair Stewart explained that by adding a short term rental definition to our Zoning
19 Ordinance, the Board is recognizing the existence of platforms such as AirBnB and VRBO and
20 the necessity to address them in our regulations.
21

22 Interim Chair Stewart opened the public hearing at 8:34 p.m. Mr. Severance felt that this
23 amendment needs to be combined with the proposed amendment to Zoning Ordinance 4.0
24 District Regulations that states that short term rentals are a prohibited use. Mr. Moodie liked the
25 definition of short term rental and believed that it made sense to keep this as a separate warrant
26 article.
27

28 Hearing no further comments from the public, Interim Chair Stewart closed the public hearing at
29 8:37 p.m.
30

31 *Ms. Crotty made a motion to advance the Zoning Ordinance amendment as written above to a*
32 *warrant article at the Town Meeting on May 14, 2024.*
33

34 Ms. Euchner seconded. Motion carried unanimously by a vote of four to zero.
35
36

37 **6. Public Hearing on a proposed amendment to Zoning Ordinance 4.0 District Regulations**
38 **to codify that Short Term Rentals are now, and will continue to be a prohibited use in all**
39 **districts in New Castle, as depicted below:**
40

41 (~~Strike through~~ means deleted text, **bolded text means added text**):
42

43 **4.0 District Regulations**

44 **4.1.2 Residential District (R-1)**
45 **Prohibited Uses**
46

2. Trailer camps, overnight cabins, hotels, motels, rooming and boarding houses, **short term rentals**, public bathhouses, public dance halls, roller skating rinks, bowling alleys, arcades, moving picture theaters, clubs, societies, gambling facilities or other places likely to cause the congregation of a large number of people except for an ecclesiastical or educational purpose;

4.1.6 Mixed Use District (MU):
Prohibited Uses

2. Trailer camps, overnight cabins, rooming and boarding houses, **short term rentals**, bowling alleys, public dance halls, arcades, roller skating rinks, or gambling facilities;

Additional Note: The other districts not specifically mentioned above do not need to be amended. Prohibited Uses in those districts state that all uses prohibited in the Residential District (R-1) are prohibited in those districts as well.

Interim Chair Stewart explained that the section of the original Ordinance has been in our Zoning Ordinance for many years. It was determined in the recent past by our Town attorney that this long-standing ordinance did not allow for short term rentals by AirBnB and other platforms. Since that decision, the Town Building Inspector/Code Enforcement Officer has shut down any short term rental that has come to the Town's attention. This new proposed addition of the words "short term rental" into the list of prohibited uses makes it explicitly clear that this type of rental is not allowed in any district in New Castle. This is not a change, but rather a clarification of what has always been the case, and is meant to eliminate any confusion or misinterpretation.

Interim Chair Stewart opened the public hearing at 8:41 p.m. Hearing no comments from the public, Interim Chair Stewart closed the public hearing at 8:41 p.m.

Ms. Crotty made a motion to advance the Zoning Ordinance amendment as written above to a warrant article at the Town Meeting on May 14, 2024.

Mr. Jones seconded. Motion carried unanimously by a vote of four to zero.

7. Public Hearing on the revised Master Plan before a Planning Board vote on acceptance.

Interim Chair Stewart opened the public hearing at 7:05 p.m. Phyllis Stibler, 125 Portsmouth Avenue, felt that the Master Plan was very readable and had great illustrations. She is the current Trustee Chair of the New Castle Congregational Church (NCCC) and asked that the NCCC be recognized in the Master Plan. Last year, the NCCC received a \$60,000 grant from the NH Land and Community Heritage Investment Program for the building's preservation. The Program requested documentation that the Church is mentioned in the Town's Master Plan. The prior Master Plan referred to the NCCC as an important historical resource, and Ms. Stibler requested that this be highlighted again. She noted that the Church owns the Post Office and rents it to the U.S. Post Office below market price. The Post Office was listed as a Town asset in the Plan, so the Church should be recognized as well. In addition, the NCCC is the only building in New

1 Castle that is listed on both the NH and National Register of Historical Places. Ms. Stibler
2 suggested adding wording on page 11, Community Services and Assets, where the Post Office is
3 referenced, to make the ownership of the Post Office clear. She also proposed adding an
4 introductory paragraph with reference to the NCCC to the Historical Resources section on page
5 29.

6
7 Mr. Springer agreed with Ms. Stibler's suggestion to add the Church to the Master Plan. He
8 appreciated the hard work of all members of the Master Plan Committee. Sandra Bisset, 34 Main
9 Street, believed that the Plan was well-presented, and felt that the energy section in particular
10 was well-written.

11
12 Interim Chair Stewart stated that the Church is not a Town-owned asset, and wondered if any
13 discussion about the Post Office and Church should be included. Mr. Jones commented that the
14 Master Plan wanted to look at what assets and services are in the public coffer, and where tax
15 dollars are being spent. The Master Plan examined the town, state, and federal government assets
16 that need to be maintained and supported. He felt that discussion about private enterprises would
17 be out of the scope of the Master Plan because the public coffer does not support the Church,
18 Wentworth Hotel, and Islander Café, for example. Mr. Springer pointed out that the Town does
19 not have a place for civic ceremonies, which end up taking place at the Church property, such as
20 the Fourth of July parade, Christmas festival, etc.

21
22 Mr. Bryan stated that the goal of the Master Plan is to document how to preserve life and the
23 historic character of New Castle. He thought it is worth supporting and documenting private
24 historic structures, such as the Church and the Wentworth Hotel. Mr. Severance wondered if the
25 omission of the Church would actually jeopardize the grant. Ms. Kieser pointed out that the
26 Energy section on page 18 has a picture of the Church, which might be a helpful reference for
27 non-residents.

28
29 Hearing no further comments from the public, Interim Chair Stewart closed the public hearing at
30 7:21 p.m. Mr. Jones stated that the Church is a great asset, but wondered if including it would
31 make it necessary to also add other private assets like the Inn and Hotel. Ms. Euchner pointed out
32 that the Church is a central location for community gatherings. Interim Chair Stewart thought
33 that Ms. Stibler made a good point about the Church facilitating cooperative use in the center of
34 Town for civic events, such as the parish hall and school concerts. It raises a hybrid question
35 since the Church is not a sponsored asset of the Town, but it does have an intrinsic value. Mr.
36 Jones was comfortable including the Church in the Historical Resources section, though he did
37 not believe it would have a whole paragraph. Ms. Crotty agreed that this is a good way of
38 addressing the subject. Members discussed whether to remove the reference to the Post Office,
39 but concluded that it should be left in the Master Plan given that it is very important to the fabric
40 of the community. Interim Chair Stewart stated that the Board will vote to accept the revised
41 Master Plan at the next public meeting.

42
43
44 **8. Approve minutes to the February 28, 2024 meeting of the Planning Board.**
45

1 The Board agreed to table the approval of the February 28, 2024 minutes, as Ms. Crotty and Mr.
2 Jones were not present at that meeting.
3

4 **9. Old Business.**
5

6 None.
7

8 **10. New Business.**
9

10 The next Planning Board meeting will be held on Wednesday, April 24, 2024 at 7:00 p.m. in
11 Town Hall.
12

13 **11. Adjourn.**
14

15 There being no further business, Mr. Jones moved to adjourn the meeting. Ms. Crotty seconded.
16 The motion carried, unanimously, and the meeting adjourned at 8:45 p.m.
17

18 Respectfully Submitted,
19
20

21 Meghan Rumph
22 *Recording Secretary*