

LONDONDERRY, NH PLANNING BOARD

MINUTES OF THE MEETING OF SEPTEMBER 11, 2019 AT THE MOOSE HILL COUNCIL CHAMBERS

I. CALL TO ORDER

Members Present: Art Rugg, Chair; Rick Brideau, Ex-Officio – Town Employee; Chris Davies, Secretary; Ted Combes, Town Council Ex-Officio; Al Sypek, member; Jake Butler, member; Giovanni Verani, Ex-Officio – Town Manager; Roger Fillio (alternate member); Ann Chiampa (alternate member) and Peter Commerford (alternate member)

Also Present: Town Planner Colleen Mailloux and Amy Kizak, GIS Manager

Chairman Rugg called the meeting to order at 7:00 PM, explained the exit and emergency procedures, and began with the Pledge of Allegiance. He appointed A. Chiampa to vote for M. Soares and R. Fillio to vote for S. Benson.

II. ADMINISTRATIVE BOARD WORK

A. APPROVAL OF MINUTES: N/A

B. REGIONAL IMPACT DETERMINATIONS: Town Planner Mailloux informed the Board that she had one project for their consideration.

1. Application for design review of a site plan for the construction of a water tank and associated site improvements, Seven Rear Gordon Drive, Map 10 Lot 142, Zoned AR-1, Pennichuck East Utility, Inc. (Owner & Applicant)

Town Planner Mailloux recommended that the Board find this project is not a development of regional impact as it does not meet the criteria set forth by the Southern New Hampshire Regional Planning Commission.

A. Sypek made a motion to find that this project is not of regional impact.

R. Brideau seconded the motion.

The motion was granted, 9-0-0. The Chair voted in the affirmative.

C. DISCUSSIONS WITH TOWN STAFF: N/A

III. Old Business-

- A. Public hearing on proposed changes to the Londonderry Zoning Ordinance, Section 5.15.1 Portable Storage Structures in the AR-1

District, 5.15.2 Portable Structures in Commercial Districts, and 5.15.3 Portable Structures in Industrial Districts as it relates to provisions concerning placement, length and permitted time of these structures – continued from August 7, 2019

Chairman Rugg read the case into the record. Town Planner Mailloux told the Board that Richard Canuel, Chief Building Inspector, Health Officer, Zoning Administrator & Code Enforcement Officer, is here tonight for any questions or concerns that the Board might have.

Chairman Rugg opened it up to questions from the Board. A. Chiampa asked about what the front and side language means in the ordinance. R. Canuel responded that as far as setbacks are concerned, he would apply the same setback provisions that there are for structures now. A. Chiampa verified that it would be 40 foot frontage for a portable structure. R. Canuel said that was correct. A. Chiampa asked if the house is set back 100 feet from the street, the portable structure could be in front of the house. R. Canuel said that it could and as long as the structure meets the 40 foot setback. A. Sypek read that "a portable structure shall not remain on any property in excess of six consecutive months in a calendar year" noting that someone could reapply for this every year, and he would like calendar year removed. He added that in his opinion there are only a couple of reasons why someone would need one of these structures, such as construction or moving in and/or out. T. Combes commented that when someone purchases one of these structures, it is for a year lease and wondered about the six month time frame. C. Davies responded that you can rent a pod for anywhere from one month to a year. R. Fillio asked about the chance that a resident's house burns down and they need to have one of the structures longer than six months. R. Canuel said that they can apply for an extension and that would stay. A. Chiampa said that is in another ordinance. Town Planner Mailloux stated that portable structures associated with construction are exempt from this section of the ordinance.

Chairman Rugg opened it up to the public.

Bill Eaton, works at Fortin Storage delivering portable storage containers, addressed the Board. B. Eaton said that Marc Fortin is unable to be here tonight, so he is here in his place. He submitted a presentation to the Board regarding portable storage containers to try and clarify any confusion on what they are. He noted that you can rent one by the month or for the entire year, they are cheaper than a storage unit at Bluebird storage and keep items close to home. He gave some examples of why someone might rent a portable storage container such as for a flood or fire, foreclosure and military leave. He noted that a company might put up a portable storage container on their property if the business is growing and they have not secured a new building yet. He pointed out that they try to use the best containers they have for residential neighborhoods. He cited a container that has been used by North School for many years now and asked why residents can only have one for six months. Chairman Rugg responded that by statute in the state of New Hampshire government entities can do things that residents cannot. B. Eaton said that a 40 foot container might be needed versus a 20 foot. Town Planner

Mailloux said that change is in the new language to allow for a 40 foot container. B. Eaton addressed the time frame stating that he feels someone might need a container longer than six months. He read something that Marc Fortin wrote stating "the structure must not be rusty or otherwise offensive to neighboring properties, enforcement action shall not be taken unless there are documented complaints." R. Canuel said that this type of language is already in the ordinance and a code enforcement officer might observe something that is not in compliance when they are out in the town, it is not just from a complaint. He pointed out that there have been six complaints over a years' time regarding a portable structure. B. Eaton said that many companies need more than one 40 foot container. R. Canuel pointed out that there is an amendment to give both the industrial and commercial properties more flexibility to be able to come to the Board through a site plan amendment. G. Verani asked if a business could not incur the expense of a new site plan for a container and have that handled administratively. Town Planner Mailloux commented that the Board has already delegated some responsibilities to staff and in that the portable storage containers would fall under the administrative review. J. Butler asked if B. Eaton knew the exact amount of containers that are currently rented in Londonderry. B. Eaton said that he does not know the exact number. A. Chiampa said that she would like to keep the portable storage containers limited to 20 feet residentially, excluding any fires or catastrophes, as they would be allowed. Chairman Rugg asked the consensus of the Board and the consensus was okay with 40 feet.

Tony DeFrancesco, One Cheshire Court, addressed the Board. T. DeFrancesco expressed concern that these structures are allowed in a residential area for storage when he believes that someone should build a shed instead. He said that he is trying to stop a person from renting a portable storage container every winter to store their antique car. He commented that a portable storage container is already allowed for construction and fire damage. He reiterated that at the last meeting he told the Board that part of their charge is to "protect the integrity of the residential neighborhoods and the quality of the community." He said in his opinion they should not be allowed in the residential setting except for construction, fire damage or by special exception from the building inspector.

Jonathan Row, 368 Mammoth Road, addressed the Board. J. Row commented that he is the minister of the Londonderry Baptist Church where they have a portable storage structure now. He said that they have a 40 foot storage container that they purchased almost nine years ago that is located almost 600 feet off the road, as they own 13 acres. He pointed out that the closet neighbor is also 600 feet away and they cannot see the structure. He explained that they had been vandalized three times, where tractors were locked in sheds, and their insurance company recommended that they get something more secure. He noted that they keep the structure looking nice and there are no signs on it. He would even argue that his structure looks better than some sheds in Londonderry. He expressed concern that this is going to force them to get rid of the structure and put them in a hardship. A. Sypek asked if he bought the container. J. Row responded that they did. A. Sypek commented that is different from what they are speaking about tonight. J. Row stated that the code enforcer came out and told him something different. R. Canuel

said that the way the ordinance is written now, the code enforcement officer is allowed to extend the time period for good reason, such as vandalism, which they have done. He noted that he felt this was a unique situation. G. Verani asked if J. Row could come in with a site plan amendment to get this structure granted. R. Canuel said he could. Town Planner Mailloux suggested that the language might need clarification because currently the Town regulates portable storage in the AR-1 district and it does not distinguish between if there is a non-residential use in the AR-1 district, which would be a church. She offered they could mimic some of the language from the commercial district, such as permitted in the AR-1 district approved by the Planning Board on a non-residential site plan. The Board agreed this would be a good way to handle this.

Ray Breslin, Three Gary Drive, addressed the Board. R. Breslin expressed concern about a 40 foot structure in a residential area. He said that most structures have commercial signage on them and also felt this was unnecessary in a residential area. Chairman Rugg commented that signage is a delicate area as it encroaches on freedom of speech. R. Breslin asked about the setbacks. R. Canuel responded that it was 40 feet in the front and 15 feet on the side. R. Breslin asked if such a structure could be placed in the driveway. R. Canuel said that the ordinance states it has to be parked on an impervious surface or on blocks, so it could be placed in the driveway.

Chairman Rugg brought it back to the Board. He noted that there needs to be some change in the language regarding church use and also in regards to the longevity of such a structure. Town Planner Mailloux suggested the language to say "shall not remain in excess of six consecutive months" noting that would mean one portable storage container on a property once for six months for all time. She said it would be an issue tracking. A. Sypek said that there is also language where the code enforcement officer could extend the time period. R. Canuel said that there is language for a one-time extension, as opposed to the way the ordinance is written now, he could grant extension after extension. Town Planner Mailloux asked if R. Canuel was okay striking the language "in a calendar year." R. Canuel responded that he was. Town Planner Mailloux recommended that because language is being changed, the Board should have another public hearing for next month and at that time the Board could make a recommendation to the Town Council. Chairman Rugg agreed that they should notify the public of the new changes. J. Butler expressed concern about residents who have a lot of land and could potentially have one of these containers and the public would never see it. G. Verani commented that this has been discussed, but never made its way into the ordinance. J. Butler suggested adding in language "if it is visible from the road." Town Planner Mailloux stated that if there was a resident who had 40 acres and wanted one of these structures for longer than the ordinance would allow, they would have to go before the Zoning Board of Adjustment (ZBA) and apply for a variance. J. Butler again commented on putting in language "if it is visible from the road." R. Canuel explained that is discretionary, as it might not be visible from the road today, but come the middle of January it could be visible. He said that this would be an enforcement problem to try and regulate this. Town Planner Mailloux suggested closing the public hearing tonight and reposted the amended language from tonight's discussion.

A. Sypek made a motion to close the public hearing regarding portable storage structures.

T. Combes seconded the motion.

The motion was granted, 9-0-0. The Chair voted in the affirmative.

IV. New Plans/Public Hearings

- A. Conceptual discussion of a proposed site plan for a parking area consisting of 621 parking spaces and a 40' X 60' building, 105 Hillside Avenue, Map 10 Lot 52, Zoned AR-1, Windham Realty Limited Liability, LLC (Owner)

Chairman Rugg read the case into the record noting this is a conceptual discussion only.

John Cronin, Esq. from Cronin, Bisson & Zalinsky, P.C., from 722 Chestnut Street, Manchester, NH addressed the Board. J. Cronin explained that they are at a critical junction with respect to the property as the auto auction is growing and they do not have the space for the vehicles. He said they are looking at land that is close to their property to be used as a staging area. He informed the Board that they are under agreement on the property and met with the abutters of the property to explain the project. He noted the property is zoned AR-1 and abuts C-II on the west. He said the property sits in a bowl that buffers the parking area. He stated that the applicant did receive positive feedback from the neighbors that they would be okay with this type of use provided it was screen and hours were limited. He told the Board that they went ahead seeking a two variances, one for use and the other was for the amount of unregistered cars. He said that there was one neighbor who spoke in opposition to the project at the ZBA meeting stating that she thought this would diminish the value of her property. He added that at the time the proposal was for 1,100 vehicle spaces and no building out at the front of the entrance. He explained that the neighbor who was in opposition has sold her property, and the new owner supports this type of use. He said that before they were to go back before the ZBA, the applicant thought it would be best to get input from the Board. He asked the Board if this case were to come before them would they have any serious opposition to it. He noted that they have added some landscaping to meet the requirements and that the residents prefer there be some type of building at the gateway to provide another screen to the parking lot with the expectation that once the shrubbery was done and completed, there would be no visual impact to the neighbors. He added that another issue that was spoken about at the ZBA meeting was that this should be a type of rezoning, but he would like to know how the Board feels about this as well. He said that with a zoning change, you are opening a much broader spectrum to this type of uses that could go into that site without the need for a variance. He explained that with a variance, there is a very specific use to what is going to be put in the property.

Chairman Rugg opened it up to questions from the Board. Town Planner Mailloux told the Board that the ZBA did deny the applicant previously. She noted that the applicant has reduced the number of parking spaces, but they would have to go before the ZBA again and are here looking for input from the Board. Chairman Rugg said that he believes the one unregistered car per lot is a state statute. J. Cronin said that it is a state statute that can be approved by the Planning Board in the site plan process. R. Fillio asked if there was already a car lot next to the proposed lot. J. Cronin said it was a multi-use commercial lot with karate and a dance studio. He noted that the rear of the proposed lot has wetlands and would most likely never be developed. Town Planner Mailloux told the Board that C-II borders the west of the property with the existing single family residential neighborhood on the other side. R. Fillio asked about drainage. J. Cronin said that the site is equipped to handle drainage and snow. G. Verani said he likes the site plan with the screening and asked about lighting. J. Cronin answered that there would be some perimeter lighting that would be motion sensitive and it would be closed with a gate at 5 p.m. R. Brideau asked how the cars would be brought there. J. Cronin said that they would be driven by employees over at Auto Auction. R. Brideau asked what would happen with a car that is leaking gas or oil. J. Cronin said that he would get an answer for R. Brideau as that had not come up as of yet. He said his assumption would be that if a car was leaking a fluid, it would be addressed at the main garage on site, but would get follow up. A. Chiampa asked if the trees were going to be deciduous. J. Cronin said he believed they would be, but would follow up to let her know exactly. A. Chiampa also expressed concern about having cars leaking fluid there. A. Chiampa said she is concerned about the intersection already. J. Cronin said that they are looking to close this at 5 p.m., but could always work with the Board. Town Planner Mailloux said that traffic would come down Hillside, which is more of a commercial portion, rather than directing traffic down the residential area. She added that if the applicant were to go forward with the application, this would be part of the site plan review. R. Fillio asked if it was a licensed auction. J. Cronin said that it was and you had to be a licensed dealer. R. Fillio said those types of businesses are usually finished up around 1 p.m. J. Butler said that he concerned about the intersection of Nashua Road and Londonderry Road and suggested the cars would only be able to make a right hand turn out of the parking lot. J. Cronin said that this was already discussed with the abutters and they would like to see that as well. A. Chiampa asked about snow storage. J. Cronin said that he thought the site would have adequate snow storage options noting the elevation flow to the wetland. Town Planner Mailloux commented that typically the recommendation from the Conservation Commission would be no snow storage in the Conservation Overlay (CO) district, so this would be addressed in the site plan as well.

V. Other

- A. Capital Improvements Plan – review and recommendation of the adoption of the 2019 (FY 2021-2026) Capital Improvements Plan

Chairman Rugg noted that the Board had a workshop session last month on this with a lot of material to review. Town Planner Mailloux informed the Board that the

Capital Improvement Plan (CIP) is a recommendation project to serve a guidance and planning document to identify capital needs in the Town and schools over a six year planning project. She said that there are five projects in this year's CIP that are all school projects. Peter Curro, Business Manager for the Londonderry school district addressed the Board. P. Curro commented that the auditorium, high school gym and the SAU office are in the four to six year plan. He pointed out that the Board received a packet of enrollment numbers that were performed by the New Hampshire School Administrators Association (NHSAA) in 2015 and added that a new study was performed in 2018 with new numbers. He said that the school is working off the 2018 study numbers and that is why they are asking for \$38 million dollars to be determined if it will be spent on a new elementary school or a large addition to Moose Hill. Chairman Rugg asked if these scenarios represent full day kindergarten. P. Curro said that they do not. Chairman Rugg asked how much the LEEP program numbers grow from the beginning of the year to the end. Superintendent Laliberte addressed the Board stating that LEEP increases steadily throughout the year in contrast to the other grades.

Chairman Rugg opened it up to questions from the Board. A. Chiampa asked for clarification on the enrollment sheets in the packet. P. Curro reiterated that the school is basing their request off the 2018 study and did not know what she was referring to. Town Planner Mailloux told the Board that information was a part of the Right to Know request given to the Board by the Chair of the CIP Committee. Superintendent Laliberte explained the difference in performing a one year, three year and five year cohort model for enrollment to the Board. He told the Board that the numbers they received were from 2011 and now using the current figures, they have 280 more students than what was projected in 2015. A. Chiampa asked if they have a chart that shows 2017, 2018 and 2019 current enrollment with projects out. P. Curro said that was passed out at the last workshop, but he could get those numbers to her again. C. Davies pointed out that the projection from the 2015 study had the enrollment at 1600, but the actual enrollment is 1733. P. Curro said that was correct. C. Davies asked what the actual class size is in elementary. Superintendent Laliberte responded that class size is 19 students for grades 1 & 2 and 22 students for grades 3, 4 & 5. T. Combes asked if there was state money available to help with this project. P. Curro said there is money available, but Londonderry's chance of receiving it is less than one percent. T. Combes asked P. Curro why such a low percentage. P. Curro told the Board that year ago, the school would receive 30% building aid, but unfortunately a couple high schools almost bankrupted the state and the formula was changed. He said he believed it was \$50 million total that the state could contribute on a need basis and Londonderry does not qualify. T. Combes asked if there was any state money that came along with full day kindergarten. Superintendent Laliberte said that they would receive and increase per student based on the current formula, stating that full day would be \$3,600, so half day would be \$1,800. He added the Keno program is not working to help cover the cost of full day kindergarten and they are waiting to see what will be done. P. Curro said that the average cost per child for school in Londonderry is between \$11,000 to \$12,000. T. Combes asked what the projection is for kindergarten next year. Superintendent Laliberte stated they have not done that

projection yet, but this year's projection was 266 and are at 261. T. Combes asked what would be needed to have full day kindergarten. P. Curro said they would need core facilities. G. Verani asked how they came up with the \$38 million dollar figure. P. Curro explained that they proposed expanding Moose Hill and building a new elementary school to arrive at that figure. P. Curro said that the number will change if full day kindergarten is started in Londonderry. A. Sypek told P. Curro that he believed there needs to be a lot of public outreach and education on what the \$38 million is for. P. Curro said that he is aware of that and they are working on it. R. Fillio asked if they would be opposed to just concentrating on Moose Hill for right now to get things going. P. Curro answered that they do not want to build something and then have to start all over. He said they need input to see if the community would support full day kindergarten first and then go forward with plans. Superintendent Laliberte pointed out that 90% of the students in New Hampshire have access to full day kindergarten program and Londonderry needs make a decision on what direction they want to go. J. Butler asked who the NHSAA is and what they do. Superintendent Laliberte told the Board they are they are a professional association within the state that handles state level government as there is not a lot of guidance from the state in New Hampshire, as the state Department of Education does not have the amount of resources or authority that other states have. J. Butler asked if they have looked at how to utilize either the middle school or high school where there is space. Superintendent Laliberte said they have looked at it, but it becomes problematic to mix age groups of children. P. Curro commented that the one thing they do not want to do is make a change and then have to make another change years down the road. J. Butler asked about the facilities study. Superintendent Laliberte stated that the study had their first meeting of this year and are looking at what would happen if they kept things the same, what would happen with full day kindergarten, what could we restructure and what would happen if they try something and it fails. J. Butler asked if an independent facilities study could be performed. P. Curro said that the NHSAA study did provide some new data regarding enrollment. J. Butler suggested that there should be some type of independent study performed to make sure the best case scenario is provided for Londonderry. Superintendent Laliberte and P. Curro agreed. A. Chiampa asked if there was a state minimum recommendation for class size. Superintendent Laliberte responded that there is no state minimum, but the state maximum is 25 students for kindergarten to second grade and 30 for upper elementary. Town Planner Mailloux informed the Board that the Finance Director, Justin Campo, was in the audience and was available if they had any questions. J. Butler asked about the special education program in Londonderry. P. Curro told J. Butler that in 2008 or 2009 the empty classrooms were filled with in-house special education programs and if these students were not kept in-house, it would cost about \$6-8 million more each year. J. Butler asked if the special education students were sent out costing the Town \$6-8 million more, could they avoid the \$38 million for a new school. Superintendent Laliberte explained that each student's placement decision is made on an individual basis and he does not think they can make a blanket statement to say it would save the \$6-8 million dollars would be incorrect.

Chairman Rugg opened it up to the public.

Jen Ganem, member of the School Board, addressed the Board. J. Ganem clarified that there are more than just school board members on the facilities study committee as well as community members and they are listed on the website.

Chairman Rugg brought the discussion back to the Board.

A. Sypek made a motion to adopt the Capital Improvement Plan (CIP).

R. Brideau seconded the motion.

The motion was granted, 9-0-0. The Chair voted in the affirmative.

VI. Adjournment


Member T. Combes made a motion to adjourn the meeting at approximately 10:07 p.m. Seconded by A. Sypek.

The motion was granted, 9-0-0.

The meeting adjourned at approximately 10:07 PM.

These minutes were prepared by Beth Morrison.

Respectfully Submitted,


Name: C. R. Morrison
Title: Secretary

These minutes were accepted and approved on October 2, 2019, by a motion made by M. Soares and seconded by R. Brideau.