



PLANNING BOARD WORK SESSION

Monday, October 23, 2017 6:00 PM
Council Chambers, City Hall

MINUTES

Approved 11/13/2017

Mr. Wahrlich called the meeting to order at 6:00 PM and asked for a roll call.

I. Roll Call

Present: David Putnam, James Short, Bruce Kolenda, Marlene Jordan, Charlene Lovett, Richard Wahrlich, Marilyn Harris, Allen Damren

Absent: Nick Koloski, William Greenrose

City Staff: Michael McCrory, City Planner

II. Review of Minutes

- September 25, 2017 – Work Session

Motion: To accept the minutes of the September 25th work session

Made by: Mr. Damren **Second:** Mr. Short

Vote: Unanimous in favor

- September 25, 2017 – Meeting

Motion: To accept the minutes of the September 25th meeting

Made by: Mr. Short **Second:** Ms. Jordan

Vote: Unanimous in favor

III. Rules of Procedure

Mr. McCrory said the Board had before it the last draft of the Rules based on discussions held last November.

The Rules of Procedure appear as Appendix H in the Claremont City Code. It provides the structure for conduct of meetings and how permits are reviewed. It couples with the subdivision and site plan regulations and other permits reviewed by the Planning Board.

Mr. McCrory said he wanted to present this draft of the Rules to see if the Board had any additional questions or comments. He said he also has recently learned of some items he would like to add to these Rules based on a law lecture series he recently attended.

Mr. Damren was not a member of the Board at the time of the initial review and he asked Mr. McCrory to point out the changes that had been made in the Rules. Mr.

McCrorry said it would be easier to describe what hadn't been changed. Things remaining the same include membership, processes, and statutory references. The Rules have been made easier to read. The amended version provides more detail and clarification on various aspects on how the Planning Board operates. It provides a more complete and consistent structure similar to the ZBA Rules of Procedure. There are some modifications to it to make it consistent with changes proposed for the site plan regulations (proposed in 2013, but never finalized).

None of the proposed revisions negate anything in the existing Appendix H. These revisions build on and improve the original provisions.

Mayor Lovett asked Mr. McCrorry what he wanted to add to the Rules based on what he had learned at the Law Lecture series. Mr. McCrorry said procedures relating to determining developments with regional impact; developing a process for when an application is found to be incomplete; clarifying the permitting and review procedures for each type of application. In addition, RSA 12k relating to wireless facilities should have a special review procedure because of FCC regulations that came into effect last year.

Commission members expressed interest in obtaining learning materials from the law lecture series that Mr. McCrorry had attended. He said he would look into it.

Mr. McCrorry said he would get the red-lined version of the revised Rules of Procedure to the Board for the next work session. He didn't anticipate reviewing it in detail at the next session, he said he would accept and respond to questions pertaining to the revisions. He said the Board will primarily be reviewing the *Housing* chapter of the Master Plan at that session. (Mr. McCrorry distributed copies of the chapter to the Board.)

Mr. Putnam said that Steering Committee approved the *Housing* chapter at its last meeting. This is the last chapter to be updated for the Plan. There are two appendices to be included with the chapter – a discussion on rental assistance in Claremont and a summary of community input.

Mayor Lovett asked when the Board would return to the Rules of Procedure. Mr. McCrorry said the discussion would be resumed at the second meeting in November. Mr. Putnam pointed out that Mr. McCrorry's memo stated that the goal is for the Planning Board to adopt the amended Rules by the end of the year.

Mayor Lovett asked if the Board's goal is to review the Rules of Procedure at the 2nd meeting on November and adopt them at the 1st meeting in December. She said she wanted to figure out what the Board's timeline is. Mr. Wahrlich said that would be the ideal timeline.

Mayor Lovett asked if the Board was going to go over a holiday schedule. Mr. Wahrlich said he didn't think the Rules of Procedure were going to be that difficult and

that the Board could adopt them fairly easily. He said the Board's discussion would dictate how long it would take and that it would be difficult to tie it to a schedule. Mayor Lovett said she understood, but that she likes to have a plan of action. She said the holidays have to be taken into consideration (i.e. meeting date changes) when trying to determine how and when things will get done. Mr. McCrory said the meeting schedule had been mapped out and adopted in January. Mayor Lovett asked if that schedule took the holidays into consideration and if that was what everyone wanted to do right now. Mr. Wahrlich said he thought the Board would go with the meetings as planned in the meeting schedule.

Mr. Putnam asked if he could ask a question about the Rules of Procedure. Mr. Wahrlich agreed. Mr. Putnam referred to Section A, Members, #6 Dissenting Opinion. Mr. Putnam said when he was on the school board, dissenting members were expected to respect and support the vote of the majority. He said the planning board Rules do not state that expectation and didn't feel right to him.

Recognizing that the majority is not always right, no member shall be prevented from seeking information or legal opinions from city staff or elsewhere simply because he is out-voted on an issue. No unanimous opinions may be required when a vote is called.

Mr. Putnam asked how a member decides whether something is right or wrong when a vote is being taken. Members assume that when they vote on something that they have been informed with the right information.

Ms. Harris said she liked that it provides members with an opportunity to seek additional information if they feel they need it. She suggested removing the first part of the first sentence: *Recognizing that the majority is not always right,*. Mr. Putnam said that would completely change the tone of the paragraph, but he felt it needed a different kind of introduction to it. Ms. Harris said it just describes dissenting opinion and seems intuitive. Mr. Wahrlich said he had been on the Board since 2006 and this had never been brought up in all that time. He wondered if it was necessary since it hadn't come up in all that time.

Mayor Lovett said some people may not know that that is an option. She said, for example, she had sent a letter with her questions pertaining to an action the Board took in September. She said she understood it was to be disseminated at this meeting, but she had written it on the 9th. She said she would like to address those concerns.

Mr. Putnam suggested rewriting #6, *Recognizing that the majority is not always right, a member may request information or legal opinions clarifying questions or issues.* He said the phrase *seeking information or legal opinions from city staff or elsewhere* sets up the idea that any one of the Board members can ask for other legal opinions and that, he felt, was outside the Board's responsibility.

Ms. Harris felt it was important for members to know that they can seek information.

Mr. Wahrlich said the City has been fortunate thus far to have a really good board. But what if someone were to get on the board to be disruptive? Or they just want to “sit back” and have City staff review everything for them? Suddenly City staff is catering to one board member. Mr. Putnam said he would ask Mr. McCrory for legal opinions if he felt he needed it, but the way this is written, it sounded to Mr. Putnam like a board member could seek an outside legal opinion on their own, and he felt that was inappropriate.

Mr. McCrory said this exact language was carried over from the original Appendix H. He said he did not know why this provision is made. He said the Board has the capacity to change or remove it. Mr. McCrory felt the last sentence of the section was the most important: *No unanimous opinions may be required when a vote is called.* Members cannot be bullied into voting a certain way. Each member has a right to their own opinion.

Mr. McCrory said he doesn't see this language in the OEP model. He offered to wordsmith it if the Board so desired.

Mr. Putnam said it can't be inflammatory – it must clearly tell Planning Board members what the protocols are for asking for legal information if the member feels something is not right. He said he himself would inform the chair of the board or the planning director/city planner and seek legal clarity on an issue. He said it would not be right for him to seek the opinion on his own. Mr. Wahrlich agreed with that.

Mr. McCrory said it sounded like the language should be changed to prohibit board members from acting independently. Mr. Putnam said yes, that independent action undermines what the Board is trying to do.

Mr. McCrory said it seems as though the section should be broken into two separate items – (1) there doesn't need to be a unanimous vote; dissenting opinions are allowed; and (2) how the board or individual members may seek additional information. Mr. Kolenda agreed and said the first step should be through the planning office.

Mayor Lovett said she didn't think it had to be specific because as planning board members they each have the right to contact legal inquiries through NHMA if desired. She felt it was up to planning board members to “do the research”. She wanted to secure the board members' right to do research and not to relegate oneself to one sole source of information. She said she was not advocating operating independently of the Board.

Ms. Harris said it is important to have a protocol for those cases where an issue cannot be resolved by going to the chair and/or the planner. Mr. Putnam said he didn't have a problem with that idea.

Mr. Wahrlich acknowledged the value of the discussion, but, as time was running short (6:45 PM), he asked that the Board move on to the Mayor's letter.

Mr. McCrory said he would work on changing #6. Ms. Harris asked to discuss #5, *Attendance*, at the next meeting.

IV. Other

Mr. Wahrlich invited Mayor Lovett to read aloud her letter to the Board:

October 9, 2017

*Planning Board
58 Opera House Square
Claremont, NH*

Members of the Planning Board:

As a fellow member of the Planning Board of Claremont, I have several questions regarding the process utilized during the review of the Goddard Emporium site application on September 25, 2017. I respectfully request that Chair Wahrlich schedule a time, sooner rather than later, when we can discuss these questions in depth. It is my belief that, once questions are raised about any process, they should be addressed in a timely manner to ensure integrity. My questions are as follows:

- A. Site plan versus site plan amendment – Prior to the meeting on September 25th, I asked Mr. McCrory if I was missing something in my packet as I only had the site plan amendment. His response, which he mentioned during the meeting, was that the site plan amendment in our packet referenced a site plan dating back to the 1980s. My concerns are as follows:*
 - Should we have a process that enables an applicant to utilize a site plan from a former project? If so, what parameters (i.e. date of plan, modifications, etc) should be used to determine the usability/applicability of the site plan.*
 - If the project is a complete reconstruction of the interior and changes some of the external lines of a commercial/apartment building, shouldn't a new site plan be required?*
 - The fees for a site plan amendment differ from those of a site plan. Therefore, it is essential that we are clear on what we are requiring.*
- B. Completeness of Packet*
 - If a packet contains a site plan amendment, shouldn't it also include the site plan as well?*
 - Shouldn't all schematics referenced by the applicant be included in the packet prior to the presentation?*
- C. Workforce Housing*
 - Given the importance that the City Council, Administration and Planning Board have placed on workforce housing, a clear definition of what that means is essential.*
 - The applicant for the Goddard Emporium project described it as workforce housing comprised of studio, one-bedroom and two-bedroom units with at least 25% of those units being two-bedroom apartments. Given we had no schematics for the internal*

layout, how can we be certain that the end product meets the agreed upon definition of workforce housing?

Thank you, in advance, for addressing my questions. I look forward to the discussion.

*Charlene Lovett
Mayor, City of Claremont*

Mr. Wahrlich said he thought the Board acted appropriately given the many other reviews to which the project will be subjected.

He cited the Brickers project where the applicants tried to use a site plan that they had before. He said the Board tried very hard to work with the applicants, but the Board ultimately concluded that a new site plan was necessary.

Mr. Wahrlich felt the Board will see more of the project if it in fact moves forward. He said he felt very comfortable with the actions of the Board on the project.

Mr. Wahrlich invited others to express their thoughts.

Mr. Putnam referred to the applicant's use of the term "workforce housing" and said it is a hard term to use, "especially in a building like that where the square footage for each apartment is very small." He said this was not what he thinks of as workforce housing. He predicts the units will be used for short term residency. He added that the *Housing* chapter subcommittee avoided building on the term "workforce housing" because "it is such a buzzword".

Mayor Lovett asked to excuse herself because had another meeting to get to at 7:00 PM. She said she hoped the Board would spend a bit more time on her letter because her concern is "we are a planning board – we have to create a process that we follow – it does not matter who the applicant is. What happens a lot of times in communities is where they really are seeking projects and they want these things to happen – and I'm not saying it's a bad project – what I am saying is that I'm concerned about the process, because what we require from one person, we should be requiring from the other. I don't care how small or big the project is."

Mr. Wahrlich said he didn't think the Board should be locked into being too stringent and not able to be creative. Mayor Lovett said she wasn't talking about being stringent, but rather being fair and equitable.

Mayor Lovett said she researched the file (for the property) and looked at the 1980's site plan. She said the external lines are going to be changed (as part of this project). She said, "We don't have a good picture in our mind for what this is going to come out looking like. The site plan from 1980 had 26 apartments, not 24, as was stated (that evening)."

Mr. Wahrlich said that as far as the aesthetic part of the project, the project has to be reviewed by the Historic District Commission. Mayor Lovett said the Board should not abdicate its responsibilities to other boards or agencies.

Mayor Lovett said it wasn't fair to have this kind of discussion when "the Board hasn't even looked at it. I've just read it into the record."

(Mayor Lovett left the meeting.)

Mr. Damren prefaced his comments with his acknowledgement that he is very new to the Planning Board. He then asked if a plan from the 1980's is acceptable, would a plan from the 1950's be? He said the question is, how far back will the Board allow a previous plan to be amended? He asked if there is a need to have it more clearly defined.

Mr. Damren agreed that packets should contain all of the schematics (for a proposed project).

Mr. Damren said he had a definition of workforce housing from the NH Housing Finance Authority. *"Workforce housing has been defined in New Hampshire statutes as housing that's affordable for purchase for a family of four making the median income or for rent for a family of three making 60% of the median income."* He said he wasn't sure the Goddard Block fits that; there was nothing presented that makes that statement.

Mr. Wahrlich agreed with Mr. Putnam that it is a buzzword. He said he has listened to presentations about "high-end luxury" apartments that didn't have dishwashers or washers and dryers.

Mr. Kolenda asked if the Board needed "a lot more training". He said he agreed with everything being said and asked how to find "a happy medium".

Mr. Kolenda agreed the packets should contain everything – "not some this week, some next week". Mr. Putnam said that was why the Board asks if an application is complete. He said maybe here is where the Board should define its expectations of a complete application.

Mr. Short said perhaps there should be a checklist of what should be contained in a complete application. Mr. McCrory said, "We have an exhaustive list of what a complete application is, but it doesn't answer all the questions, and every time the Board is encouraged to ask questions."

Mr. McCrory went on to say, "I just have to say for the record that the Goddard Block proposal was approved unanimously. If there was an issue at the time, it should have been brought up before the vote."

Mr. Kolenda and Mr. Wahrlich both agreed that they are excited about the project and agreed that the Historic District Commission and the federal loans will be "right on the case".

Mr. Kolenda said he should have followed up more on the workforce housing topic.

Mr. Short said the Board should learn from this and make sure it doesn't happen again. Mr. Damren agreed and said he wasn't suggesting that the Board go back and re-examine the Goddard Block – "It's done, it was voted, and Mike's points are exactly right. However, the questions might be used as a template going forward."

Mr. Wahrlich said he wanted to be sure the Board is careful to not develop a reputation for being difficult to work with. He said an executive from NHI had told Mr. Wahrlich that Claremont had been "fantastic to work with". He felt this was really important.

Ms. Harris said she didn't think Mayor Lovett was asking to review the Goddard Block project again, but she did feel this was a good learning experience. She said she relies on Mr. McCrory's expertise for guidance. She agreed with Mayor Lovett in that she didn't feel the Board should abdicate its responsibilities to other agencies. She also wanted to ensure that all projects are to be treated the same way regardless of size or how excited the City may be to have them.

Ms. Harris said she was more focused on what the façade of the building was going to look like (during her review of the Goddard Block) and acknowledged that this was a learning experience for her.

Mr. McCrory said the Board could take Mayor Lovett's letter and see how it applies to the Rules of Procedure and the Site Plan Regulations.

Mr. McCrory said the statutory definition of workforce housing is to defend the interests of the developer who wants to build it in the case that there's an overly-restrictive municipality that denies it – he can find a builder's remedy. "So, in that specific case he has recourse if they are being overly restrictive on the type of housing development the community allows." The NH Housing Finance Authority definition is a very specific metric that can be applied across the state. The *Housing* chapter discusses housing affordability without using the term "workforce housing".

Mr. McCrory the Board could use the Goddard Block project as a case study of where the Board could do things differently. For example, when the applicant states that the goal of the project is to provide workforce housing, the Board could then ask, "What do you mean by that? What data do you have to back that up?" He said reviewing the Rules of Procedure and other regulations helps to provide the Board with an intimate knowledge of their contents. He impressed on the Board the latitude of requests the Board can make, so long as the Board sees the requests as reasonable. He said the Board did not need to be more critical, but it does help to be more discerning.

Mr. McCrory said there are communities with the reputation of being hard "because they want to be". He said he did not see that in this board.

Mr. Putnam said the way to being fair begins with following clear and concise rules.

Mr. Wahrlich said he didn't want the Board to restrict itself to the point where it can't "think outside the box".

Correspondence received: DES Permit by Notification for a dry hydrant installation near the high bridge on the Sugar River.

V. Adjournment

Motion: To adjourn the meeting

Made by: Mr. Damren **Second:** Mr. Putnam

Vote: Unanimous in favor

The Meeting adjourned at 7:07 PM.

Respectfully submitted,
deForest Bearse