



TOWN OF WARE

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Planning Board Minutes February 19, 2014

Planning Board Members present: Rick Starodoj, Joe Knight, Dave Kopacz, John Chabot (Alternate)
Planning Board Members absent: Chris DiMarzio, Fred Urban
Staff present: Karen Cullen, Director of Planning and Community Development
Public: Bill Imbier, Doug Imbier, Andrew Norton

- 7:00 Meeting opened
Minutes of January 15, 2014 tabled.
- 7:03 ANR, Beaver Lake Trust
Discussion regarding the purpose of the division; to split off a small area from a residential lot which is on the downstream side of the Trust's dam at Babcock Tavern Road to allow the Trust to access the dam for any necessary repairs and maintenance. It was noted the parcel being created meets the minimum frontage requirement for the district (RR; 150 feet) but does not meet the minimum area requirement of 80,000 square feet; note 10 on the plan states the new parcel is not a buildable lot under the current zoning bylaw. The parent parcel (with the existing house) retains both frontage and area in excess of the minimum requirements.
- KOPACZ Motion to approve the ANR plan as submitted and to authorize Karen Cullen, Director of Planning & Community Development , to endorse the plan for the Planning Board.
KNIGHT Seconded
ACTION All in favor (3/0/0)
- 7:15 Public Hearing – Major Site Plan Review for Cumberland Farms, construction of a new auto fuel station with convenience store at the corner of Fourth Avenue and West Street (Route 32). Board member Joe Knight read a notice of postponement into the record: “SPA-2014-001; Major site plan application for the construction of a new auto fueling station with a convenience store on West Street (Route 32) at Fourth Avenue. Legal notice published in the Ware River News on January 30th and February 6th. Due to the lack of a quorum for this site plan at tonight’s meeting, the public hearing scheduled for 7:15 pm for this application is hereby postponed to March 5, 2014, at 7:16 pm. While we cannot entertain questions or comments on this application tonight, if anyone present wishes to view the plans, we can show them to you or you can review them during regular office hours at the Building Department. We apologize for any inconvenience this has caused.”
An abutter (did not give his name) inquired as to whether Cumberland Farms might be interested in purchasing his property; he was told he could get their contact information at the Building Department and could contact them directly.

Discussion on Pennybrook Estates

Three residents addressed the Board in an informal discussion about the subdivision, as they are interested in purchasing one or possibly two lots in the subdivision to build homes for themselves. Rick gave a brief summary of the current status of the subdivision, noting the owner (MRT Development) has been doing necessary repairs to the roadway each year and the Town is plowing it this year. He noted we are doing annual reviews of all the unfinished subdivisions in an attempt to keep abreast of their condition. Discussion about sureties, both the covenant and monetary sureties, and how that may impact homeowners in the subdivision. Suggested they could negotiate a purchase & sale agreement with the developer to purchase a lot, with a condition that the covenant be released for the lot. The board noted the responsibilities the homeowners have, recognizing that many buyers don't fully understand the risks they are taking on when purchasing in an unfinished subdivision.

Discussion on zoning amendments

1. Definitions – strike second sentence of definition of “product sign” since it is regulating and not defining. All agreed.
2. Single or two family units in MY – change the Use Table to allow by right (i.e. change from “N” to “Y”) single family residential and two family residential in the Millyard district, and add new language in a new §4.3.1 (renumbering the following sections accordingly): *“Single Family (A-1) or Two Family (A-2). In the MY district, a single housing unit or two housing units are permitted provided they are located in an upper floor or an area on a street level floor that is to the rear of a nonresidential use; the building must contain nonresidential uses allowed in the MY district as well as residential units (i.e. mixed use).”* After discussion the Board decided to modify the language to clarify the nonresidential space doesn't have to be occupied, but it must be designated for nonresidential use (change *“must contain nonresidential uses...”*).
3. Accessory apartments – discussion whether to allow accessory apartments in detached buildings. Draft amendment would only allow above a detached garage, discussion whether such units should be allowed on the ground floor of a detached building, potential ramifications of allowing that – it would essentially be allowing two separate houses on a single lot, which is prohibited in the zoning bylaw. It could create code enforcement problems if people abuse it. After discussion the Board decided to have Karen redraft the language so an accessory apartment would be allowed in a detached structure provided all utilities are connected through the single family home, that the structure must be located within 100 feet of the single family home, and that the accessory unit can be on the ground floor or an upper floor (such as above a garage).
4. Replacement of existing Mobile home on individual parcel (i.e. not in a mobile home park) – the drafted amendment adds a new §4.8.7 which reads:
Replacement of Existing Mobile Home not in Mobile Home Park – Mobile homes on individual parcels that are not in common ownership with any adjacent parcels may be replaced with a modular home or a site-built home upon receipt of a Building Permit provided the following criteria are met:
 - A. *The minimum lot size for a parcel in the Rural Residential district shall be 25,000 square feet, and in any other district shall be 7,500 square feet.*

- B. *The replacement home may be larger than the existing mobile home, but must either comply with the setback requirements of §5.1.1 or first receive a special permit or variance under the provisions of §1.9.2.*
- C. *If not already served by municipal utilities (water and/or sewer) and said utilities are available within reasonable distance of the lot, the new house must be connected to said utilities. If municipal utilities are not available, the applicant must secure the appropriate approvals from the Board of Health prior to obtaining a Building Permit.*
- D. *The parcel is not vacant at the time of application for a building permit.*
- E. *The mobile home has been used for human habitation for a period of time during the two years prior to the application for a building permit under this section, as proven to the Building Commissioner by submission of copies of utility statements.*

Karen described how she had arrived at the area figures in this section, using the GIS and assessor's database to analyze the existing mobile homes on individual parcels by zoning district. She used the figures at the 25% point; i.e. 25% of the existing parcels would still be noncompliant and replacement of those mobile homes would still require a variance from the ZBA under the provisions in §1.9. But 75% would comply and would be able to replace the mobile home with a modular or stick-built house as long as they could meet the other requirements. In all, there are 127 mobile homes existing on individual parcels today, and 74% of them are noncompliant for parcel size for the district they are in. This amendment would allow most of those owners who wished to replace their home with a new, larger, and probably studier home to do so, which in many cases would enhance property values and improve the neighborhood. The Board agreed to move forward with this amendment as written.

- 5. Minor modification to the purpose section of the floodplain section, 4.9.1.A.1 – change “Ensure” to “Enhance” and 4.9.1.A.3 – change “Prevent” to “Minimize”; all agreed.
- 6. Minor modification to buffers and landscaping section, 6.2.2, change “district” to “use” in the second line so it reads “Wherever a non-residential or multi-family residential use abuts a residential use, regardless of what zoning district such use is located in...” Karen noted this was an oversight on her part in 2012, it should have said “use” as opposed to “district; when you read the entire provision it is clear the intention was for it to be use and not district. The Board agreed.
- 7. Discussion about visibility at driveway exists being blocked by landscaping; the Board directed Karen to draft language to address this, including both at time of planting and ongoing maintenance, in a new §6.2.6.E (design of buffers and landscaping).
- 8. Modifications to the signage section – based on discussions with the ZBA, Karen has drafted numerous revisions to the bylaw:

6.5.1 – the Planning Board thought we should also change “Prevent” to “Minimize for the first two bullet points in the purpose and intent section.

6.5.3.B – reworded to clarify that the entire section is dealing with signs erected by governmental bodies. The Board agreed.

6.5.3.D – the Planning Board decided to delete this one since they see no reason for non-profit organizations to not have to comply with the sign regulations.

6.5.3.E – added language to avoid conflicts with the requirement that signs not flash. The Board agreed, and noted that if the sign is inside a window, it may enjoy other protections.

6.5.3.G – added language to limit to signs associated with a drive through facility. The Board agreed.

6.5.3.L, S, and T – deleted product signs, construction signs, and temporary signs from the list of exempt signs, since all three of these are regulated elsewhere in the signage regulations. The Board agreed.

6.5.4.C and D – reworded to be consistent in style with A and B of the section. The Board agreed.

6.5.4.E – added language to allow existing roof signs to remain when there is a change in business occupying the space, provided the space is reoccupied and the sign changed within six months of its vacancy. The Board agreed. There was also discussion about whether we should add a definition for roof sign.

6.5.5.A.4 – discussion regarding the illumination of signs when a business is not open; the Board decided to have Karen draft language to modify the provision to all signs to remain illuminated until 10:00 pm unless otherwise permitted or restricted in a permit issued by the Planning or Zoning Boards (e.g. a special permit or variance).

6.5.5.A.8 – added the word “owner” to clarify that either the sign owner or the property owner can be held responsible for the cost of a sign modification or removal. The Board agreed.

6.5.5.A.15 – add a new paragraph (15) to read: “Construction signs are allowed provided they do not exceed 32 square feet, and they must be removed within two days of the issuance of the certificate of occupancy for a building or within one month of acceptance of a road for a subdivision.” The Board agreed.

6.5.5.D.5 – added language regarding placement of a sign in proximity to a fire hydrant; the Board agreed.

6.5.5.D.6 – discussion regarding the time period in which a sign for a defunct business must be removed; the Board decided to change it from 30 days to one year.

6.5.6.C – delete provision regarding construction signs since it has been added to 6.5.5.A as new item 15. Discussion about small, temporary contractor signs such as “new roof by Joe Schmoe” that pop up on lawns when homeowners hire contractors; Karen pointed out they don’t fit the definition of “construction sign”; the Board decided to leave that issue alone. The Board agreed with the deletion as drafted.

6.5.7.A – table of requirements for signs in non-residential districts. The Board agreed with the drafted modifications:

- Under four or fewer businesses on site: decrease max size of freestanding sign in DTC from 32 to 24 square feet; increase in HC district from 50 to 75 square feet.
- Also under four or fewer businesses: delete 125 square feet max size of wall and projecting signs in the HC and CI districts and replace with note 6 to read: “Two square feet per lineal foot of building front (i.e. side of building where the main entrance is located), not to exceed 100 square feet in the HC district and 200 square feet in the CI district.” This will make the size of the sign have some relationship to the size of the building as seen from the front.
- The Board decided to add a new row to this section to clarify the number of wall signs permitted per business, and add language to this and the next section (five or more businesses) to clarify that you can have one primary wall sign and one secondary wall sign per business.
- Under five or more businesses, change the minimum distance between freestanding signs from 50 feet to 100 feet in all districts.
- Also under five of more businesses, replace 32 square feet in the HC and CI districts with note 6 (same as above).

6.5.8.A.4 – add a new item 4 (and renumber the following item to 5) to read: “Information regarding the proposed lighting of the sign, including type of lighting, brightness, and dimming operations.” This information is not currently explicitly required with the application, but is needed to determine compliance with the regulations. The Board agreed.

NEXT PB MEETINGS

March 5, 2014 (joint hearing with ZBA; variance and special permit for two family in RR – the applicant has verbally stated they would withdraw the applications but we have yet to receive this in writing, and until we do the hearing will remain on the schedule. We also have the Cumberland Farms public hearing on the major site plan review at this meeting, and discussions with the owner of Coldbrook Drive, and final discussions on the zoning amendments prior to publishing the public hearing notice for them.)

March 19, 2014 (public hearing for an amendment to special permit at ABC&D to add U-Haul rental; possibly continuation of the Cumberland Farms major site plan review, possibly continuation of the hearing for the variance & special permit request, and possibly continued discussions with owner of Coldbrook Drive.)

KOPACZ Motion to adjourn at 9:32 PM
 KNIGHT Second
 ACTION All in favor (4/0/0)

<p>Minutes Approved on: _____</p> <p>Starodoj _____</p> <p>DiMarzio _____</p> <p>Urban _____</p> <p>Kopacz _____</p> <p>Knight _____</p>
