

TOWN OF TEMPLE, NEW HAMPSHIRE PLANNING BOARD

FEBRUARY 5, 2007
FINAL MINUTES OF PUBLIC MEETING

Board members present: John Kieley, Tedd Petro, Richard Whitcomb, Allan Pickman, Bruce Kullgren, Will Wildes

Call to order by Kullgren at 7:36 p.m.

1. Kullgren announced this was the second hearing to consider proposed amendments to the zoning ordinance. He stated the Mountain Zone PRD Ordinance had been tabled at the last hearing. The first item discussed was the petition warrant article involving a change to Article VIII, Section 2: Building Permit Required. Kullgren asked for comments on the issue. Kieley said the town is supportive of agriculture, but there is concern that an agricultural building of any size can be built close to an abutter with the current allowable setback. He mentioned one particular 16,000 square foot riding arena in town that had generated comment. He advised that this proposal would require large agricultural buildings to go through site plan review, and the process would help protect property values. Honey Hastings said there had been some comment over the suggested structure size of 3,000 square feet, and the intention was that traditional size buildings would not be required to go through the process but larger ones would. She stated the objective of the ordinance was to mandate some oversight by the Planning Board. Whitcomb commented that perhaps larger size agricultural buildings not being placed close to property lines but located "out in the middle of a field" away from abutters would not need to undergo site plan review. Kullgren spoke about not being in favor of the article as written as it does not specifically request further setback. He said he understood the problems associated with the riding arena previously mentioned, and felt a buffer could help that particular situation. Petro spoke in favor of the article, which he felt would allow the PB to evaluate other issues such as lighting, parking and traffic. He stated it would provide an opportunity for the board to have input and offer suggestions. Connie Kieley told the board it had been hoped the PB would work on the issue this year, and the petition was brought forth to ensure it was addressed. Pickman stated simply he saw no harm in it. J. Kieley said he understood Whitcomb's comment that perhaps a large amount of acreage with a building placed in the middle would not need to undergo site plan review. He said waivers are already available in the site plan review process and that the PB should have oversight for this type of application. Kullgren asked what would have been affected if the proposed regulation had been in place when the 16,000 square foot arena had been built. Kieley responded that placement, size, etc, would have been addressed prior to construction.

Kullgren stated he felt the amended article discriminates against agriculture and might allow residents to stop this type of building. He continued that agricultural pursuits must already follow good environmental and drainage applications and Best Management Practices, and worried that the article might cause control to be misused if a building was felt to be "not aesthetically pleasing" to some. Pickman asked Kullgren if the state performs pre-reviews of agricultural BMP's, or only after a structure was built. Kullgren said he did not know. There was some debate involving the merits and limits of setback requirements. Kieley said he felt that the proposed changes would not have allowed the controversial riding arena to be located where it was on the property, and would have required controls for color and screening. He also stated a 16,000 square foot metal building does not belong 35 feet from a residential lot line. He suggested that interested residents review the town's site plan review regulations,

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and concluded the proposed change was not perfect but was a start to tighten up the ordinance.

Rose Lowry asked what conditions would necessitate site plan review, and was advised by Pickman that visual impact was a concern but most consideration was given to grading, roads, drainage, etc. Mention was made of other businesses in town that had or had not undergone site plan review and the perceived consequences of such. Petro stated again there was no specific bias against agriculture but the PB should have the opportunity to make suggestions that would help protect the neighbors and neighborhoods. C. Kieley echoed this and said the petition signers had no intent to stop agriculture. Kullgren said not enough thought had been put into the proposed change and it should be made more specific. Wildes stated his concerns over the proposed ordinance and detailed his experiences with the riding arena in question. He said if the proposed ordinance had been in place, circumstances would have dictated the outcome would be the same, and he would not support the proposed change. Lowry said good intentions do not offer protection and if site plan review was required there would be more influence. Petro remarked that right now the town cannot control things such as lighting, and the ordinance would offer neighbors some protection. J. Kieley commented that with site plan review regulations a bond could be required.

Pickman told the board the petition needed to be placed in correct ballot form, including a statement of PB support or non-support. He reminded the board they could not change the wording of the actual article. Petro moved to have the PB vote on approval of the article, with a final vote on Wednesday if there was a tie. Kullgren polled each board member for their position on the article, with Kieley, Petro and Pickman in favor, and Kullgren, Whitcomb and Wildes opposed.

The board then discussed whether the purpose statement should be printed on the ballot. J. Kieley suggested seeking advice from town counsel. Kullgren advised he had contacted the legal department of SWRPC and was told the purpose could be left on. C. Kieley said the purpose statement was not meant to promote bias, but just to offer some explanation to the public. Pickman said the board should create a draft in ballot form and send it to town counsel for review. He suggested using a shortened version rather than the entire content of the article. Wildes said the whole article provides more context and he favored leaving it intact but without the purpose statement. After further discussion the board decided to print the entire article on the ballot.

2. At 8:34 p.m. the board began discussion of the proposed changes involving Home Industry and Related Ordinances. Petro suggested that under Section 11 (c) the number of employees should be reduced to two instead of three. He gave sizes and employees of existing businesses in town as examples. He also told the board he had reservations about using a garage as part of square foot size calculation, as the current ordinance has separate definitions for dwelling and garage. He stated the PB needed to define business size so it can identify if expansion or growth still qualifies as a home business. He would like the board to determine where the line is between home industry and commercial business. Kieley stated the ZBA agrees and is seeking clearer definitions.

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Resident and ZBA alternate Steve Andersen addressed the board. He stated he understood the PB cannot change the article but can vote on it as-is or table it. He said the use of the 50% figure in Section 11: (b) opens up the ordinance, with no restrictions on noise, parking, etc. and could "slaughter the neighborhood". Andersen stated his business and others underwent site plan review and followed the rules. He continued that with the proposed changes, anyone could come in and build for a home business with no oversight, and the "neighborhood would know only after the concrete is poured". Andersen continued that if the town passes this ordinance it would set the stage for "ridiculous" businesses to come into a neighborhood. He said he had developed some drawings to illustrate just how larger size businesses would be allowed. He stated the ordinance would let realtors offer a house in Temple for sale with a pitch of "buy a home, have a business". He concluded by saying the proposed changes "would not protect the little guy".

Honey Hastings explained the proposed changes and said if the definitions were not feasible they could be dropped. She suggested the PB set up a joint task force and hold meetings with the ZBA to work on tightening up the regulations. Resident Dave Martz said the phrase "1,000 square feet or greater" implied a huge addition could be used for business. Kullgren said the original intent of home industry zoning was that the little guy should be able to have a little home business. He continued that the definition of dwelling under current zoning is interpreted with the garage as part of the dwelling, and that utilizing one-half of a home for home industry within the dwelling should be sufficient. He suggested the proposed changes needed more work and should be considered next year. Charlene Eddy told the board to look again at the whole proposal, and said perhaps the phrase "home industry" should be changed to "home business" to imply a smaller scale. Eddy read the definition of home business from the Town of Lyndeborough's zoning, and suggested the board review ordinances in similar sized towns. She advised the board to wait and work on the ordinance next year. C. Kieley said she understood the struggles of the board and urged them to seek a compromise. Kullgren asked the board to move forward and again suggested working on these issues during the coming year.

Move by Pickman to table proposed changes to Article II: Definitions and Article IV: General Provisions, Section 11: Home Industries and Professional Services, second by Wildes, and voted five in favor, with Kieley opposed.

Move by Wildes to accept Article IV: General Provisions, Section 5: Setback as written, second by Petro, and voted in the unanimous affirmative.

Move by Petro to accept Article IV: General Provisions, Section 16: Home Products and Produce as written, second by Kieley, and voted in the unanimous affirmative.

Move by Petro to adjourn, second by Pickman, and so voted. Hearing and meeting adjourned at 9:34 p.m.

Minutes submitted by Betsy Perry