

Town of Hill
Hill Planning Board
Minutes
25 January 2018

In attendance: Bob Helmers (Chair), Tom Whitman, Mike Brady, Marshall Bennett
Public: James and Kristen Cunningham, Philippa Bohl, Paul and Elizabeth Meyerhoefer, Joe Mahoney, Tom Seymour, Chris Vlitias

Meeting opened at 7:01 p.m.

Public hearing for proposed zoning amendments was opened at 7:04 p.m.
Noting the relatively small turnout, chair suggested the hearing would be conducted in the manner of an open forum.

Comments on the first proposed amendment, redefinition of frontage, were invited. Mr. Meyerhoefer asked what is the current definition of frontage. The current definition was read. Mr. Brady explained that the current definition was vaguely worded. "Street" was subject to a broad interpretation. The proposed amendment is intended to narrow or clarify the meaning of frontage. The wording was recommended by town counsel. Mr. Brady also noted that town is currently in litigation that the proposed definition could have prevented. Mr. Helmers noted that a similar proposal, along with some other unpopular proposed amendments, had been voted down several years back. The earlier proposed amendment was an attempt to address the moratorium for building on Class VI roads. He added that there were relatively few Class VI roads in the town and that residential development might include the need to get school buses, fire and emergency vehicles to locations where road conditions could not support such vehicles. He reiterated the need to update the definition. There were no more comments on proposed amendment 1.

Comments on the third proposed amendment, expansion of the commercial zone along Route 3A, were welcomed. Mr. Cunningham asked if Commerce Street was in the commercial zone. He was informed it extends southward along Commerce Street to the town border with Franklin. Mr. Cunningham asked why the commercial zone need to be expanded. Mr. Brady stated that the Selectmen's board regularly receives requests for adding more commercial opportunities in the town. Residential use, which many of the properties currently are in the proposed expansion area, would still be allowed. The proposed amendment would allow more opportunity for commercial development, which the Selectmen's board would like to encourage. Mr. Brady added that the expansion may not change anything. Several of the tracts are town owned and deed restrictions limit the use of now abandoned gas station. However, expansion of the commercial zone would allow for other commercial options, including land swaps. Residential owners would have the option for residential use or conversion to commercial use. Mr. Mahoney pointed out that, other than the town owned lots, all the other lots were residentially developed. Mr. Brady thought there were a few undeveloped lots, but adoption of amendment would still expand options for current landowners. Ms. Meyerhoefer suggested that commercial or industrial development could hurt residential areas. Ms. Bohl agreed adding several examples of undesirable land uses that would likely have negative impacts on residential neighborhoods. Mr. Brady stated that other than expanding the areal dimensions of the commercial zone, there would be no changes to allowed uses. Uses that are currently not allowed by zoning will apply to the expanded commercial zone. Mr. Cunningham asked if tax reductions would be granted to any new commercial enterprises. Mr. Brady replied "not while he is a Selectman". Mr. Brady continued that the proposal would only

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open up new areas for commercial activity, the existing commercial zone is completely occupied. Mr. Meyerhoefer asked where the V- lots were located. Mr. Brady, Mr. Mahoney and Mr. Meyerhoefer spent a few minutes looking at a tax map. The V- lots are located on the western side of Route 3A both north and south of the now abandoned gas station. Mr. Meyerhoefer raised a number of concerns about effects of noise, light, fumes, increased travel, congestion. The board pointed out that any commercial activity in the commercial zone would be subject to site plan review regulations which address such concerns. Mr. Meyerhoefer asked if the expansion of the commercial zone was in the master plan. Mr. Brady expressed doubt, but Mr. Helmers thought it did. [Followup: The master plan, under 'future zoning districts' cites the need to evaluate and consider expansion of the commercial district and the master plan designates the currently proposed expansion area as a Village/Nodal development area (recollection was that this was to be an area of mixed residential and commercial uses – Mr. Helmers)]. Mr. Meyerhoefer asked if speeds would be reduced on Route 3A. Board responded that NH-Route 3A is state highway and they determine speed. Mr. Meyerhoefer questioned the minimum lot size for residential uses in the commercial zone. Many of the lots in the proposed expansion are in the rural residential district, which has a three acre minimum for one family dwelling. The transfer of rural residential lots to the commercial, which requires only a 1 acre minimum, could potentially lead to subdivision. Additionally, commercial lots could have apartment houses or condominiums, which would therefore greatly increase the number of housing units. There was some (somewhat inaccurately low) assessment of maximum numbers of dwellings that could possibly occur. Using an example of a large satellite dish manufacturing company, Mr. Meyerhoefer suggested that the residential character of the village would be negatively impacted. Mr. Brady responded that any enterprise locating in the commercial district would be subject to what is allowed by zoning and also be subject to site plan review regulations. Ms. Meyerhoefer asked if existing businesses would be grandfathered. Mr. Helmers replied that grandfathering is not necessary because all properties are currently in compliance with Hill commercial zone requirements (possibly excepting one site in the current commercial district). No additional comments.

Comments on proposed amendment 2, definition and provisions related to home business, ensued. Mr. Cunningham asked who was bringing this up, who in town was bringing this matter to the board. Mr. Brady responded that the planning board had initiated the proposed zoning amendment. The town was trying to get some control of home occupation activity in the town as some sites were getting out of hand. He listed the retail gravel business, Randy's truck repair shop and Moses's construction business. Hill has no building inspector and often the Selectmen have no idea of business activities, or when they start, especially in the rural areas. As a result, the board of Selectmen has to react to these situations, which is more difficult than addressing the matter before the startup of activities. The board would like to get residents interested in starting a home business to come in and discuss the matter before any activities begin. Mr. Cunningham expressed frustration with the proposal stating "this is insane". He continued that he would not want to see a fleet of company vehicles on his neighbors property, but the town should not be regulating what goes on in private properties. He added that the town should not "beat up" people who are trying to bring business into the town. He added that he was already subject to a lot of federal and state regulations and would resent having to deal also with what he considered unnecessary regulation from the town. He wondered why the town needed to create new regulations that create additional restrictions and burdens for local business. Mr. Whitman pointed out that these are not new regulations and pointed to the existing definition for home occupations in the zoning ordinance.

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There followed a brief discussion between Mr. Cunningham and Mr. Whitman regarding personal property rights and government intrusion in private affairs. Mr. Whitman concluded the exchange by pointing out that Mr. Cunningham's home business would be okay as it complies with both the home occupation that currently exists and the proposed changes. Mr. Vlitask asked that if Shawn's twin [believed to be a reference to the retail gravel business] wants to compete with Shawn and sets up a business nearby, but puts it behind a fence, is he compliant with the proposed regulations? Mr. Brady pointed out that the town would like to see more business and not "pick on people". He would like to have the town take a look at the proposed business operations, before it happens, not afterward, allowing for discussion and compromise. The intent of the regulations is not to stop business. He added that the selectmen's office, as in the past, has no intent of going after home businesses that already exist, but want to make sure activities do not get "out of hand". Mr. Vlitask pointed out that he did not see anything about grandfathering in the proposed amendment. Mr. Brady assured that existing home occupations would be okay. Mr. Brady noted that the town must also respect rights of neighbors, the proposed amendment provided a means to deal with problems, as neighbors and business owners could discuss matters and everyone would understand what is occurring. He used Randy's Truck repair as an example, an operation that started relatively small but has expanded considerably, to the displeasure of some nearby residents. Several attendees pointed out that Randy's does good business in the town and that even the Town of Hill utilizes them. Mr. Brady simply pointed out that some potential problems could have been avoided with dialogue. Anyone looking to purchase a property in Hill and start a home business should research any regulations or restrictions before making the purchase. Mr. Cunningham questioned that neighbors have a right to control what he does on his land. Anyone could complain about any dust, fumes or "undue noise" generated on his property. A neighbor could complain about the gunfire and try to shut down his business with these regulations or the town noise ordinance (wondering if the town had one?). There followed a brief discussion of the level of gunfire that has occurred in the town in the past year. Mr. Helmers noted that recreational use of firearms would not be subject to these regulations, but that any gunfire associated with the business operation, would be. Mr. Bennett noted reasonable amount of noise would be okay, but there is a big difference between a few shots fired in midday compared to a few shots at 3:00 a.m. in the morning. Mr. Whitman noted that regulation of home occupations already exists in the zoning ordinance, but the board hopes the amendment will help clarify exactly what home occupation means. He again noted that Mr. Cunningham's business is already compliant with zoning. There again was a brief exchange between Mr. Cunningham and Mr. Whitman about government intervention and personal property rights which the chair halted. Mr. Helmers noted that objections of neighbors do not abrogate the rights of property owners to conduct a home business, but activities should be conducted in a safe and unobtrusive manner. He noted that the original intent of the zoning ordinance that was adopted by the town was that the rural areas be primarily a residential (and agricultural). The area was intended to be free of industry and that any commercial or home business be limited in size to maintain the residential character. Mr. Vlitask asked that if these regulations were approved by the town, would he need to come to the planning board to get a permit. It was pointed out that he has an agricultural use and that these regulations do not apply to agriculture. In the case of home occupations, the board noted that any existing home occupation would be not be required to obtain a permit, provided it remains the same henceforth; however, if any change or expansion occurs, the owner should obtain a permit from the board. Ms. Meyerhoefer made vague references to an operation that she thought something bad would someday happen. She wondered if these regulations would correct conditions at the site. Mr.

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Brady reiterated that any existing business would be grandfathered, therefore the town would not impose change (based on these regulations). Mr. Cunningham asked if there would be any fees for the permit. Mr. Brady stated that imposition of fees was up to the planning board. Mr. Helmers noted that he had no intention of imposing fees for home occupation permits. Mr. Brady gave assurances that any existing home occupation would be allowed to continue and that they would not need to obtain a permit. The purpose was to create a process where the Selectmen could act before a (potentially non-compliant) home business begins operation, rather than afterwards. The permit would require new businesses to come to the town to discuss their ideas, making neighbors aware of the activity before any problems emerge. Mr. Helmers again noted that the original intent of the zoning ordinance was to establish a residential zone, not an industrial or business zone. Problems have occurred because the current definition is too vague and is often interpreted differently by various individuals. Some may say that since I live on the property, any business I do is a home occupation. The zoning ordinance actually has a more narrow definition, confining activities to within the home, without any outside indication of a business, other than a sign. A home occupation should look like a residence, not a business. Any businesses exceeding the current definition of home occupation was done so willfully or by simple mis-interpretation. Mr. Helmers added that the proposed amendment is actually less restrictive, allowing for signs, accessory buildings and vehicles. Mr. Vlitas suggested that the town generate a list of uses that are allowed, such as gun shops, gravel sales, vehicle repair, professional offices, etc. Mr. Helmers pointed out that it would be almost impossible to generate an accurate list of all possibilities. Mr. Bennett pointed out that there would likely be considerable ambiguity in how various individuals defined the listed professions or businesses. It would create “gray areas” in the definition which would only lead to difficulty later. Mr. Vlitas suggested that the town include a grandfather clause in the proposed amendment. Mr. Helmers stated that such was his intention after the hearing when the board made any final adjustments to the proposed amendments before approval for town ballot.

Mr. Helmers asked the attendees if they thought a permit would be necessary for instances where the home occupation was entirely within the confines of the residence, without any outside evidence of the operation, or at most a small sign, but no vehicles. The idea was opposed by Mr. Brady and other members of board. Mr. Cunningham did not think that any permitting was necessary under those conditions. No more comments.

The public hearing for the proposed zoning amendments was closed at 8:05 p.m. All attendees other than board and Mr. Seymour left.

Chair opened consideration for proposed amendment 1. No comments and a motion was made and seconded to approve the proposed amendment for town ballot. Passed unanimously.

Chair opened discussion of proposed amendment 2. It was noted that turnout for the hearing was low and that some opposition was expected. Mr. Helmers suggestion to not require permits in cases where there was no outside evidence of business was rejected. Such action could cause confusion for residents engaging in home occupations with a result being that they do not approach the board to obtain a permit in cases where they should. It was clear from public comment that a grandfather clause was needed, existing operations should be allowed to continue without threat of potential litigation in future. Given the need for the town to try to clarify its vision of home occupations and the low number of opponents, the board decided to place the amendment on the

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ballot and let the voting members of the town decide. Mr. Helmers added the grandfather clause to read thus:

11. Any home occupation, and associated structures, that existed on April 1, 2018 and that conform with the provisions of this Section do not need to obtain a permit. Any changes in use or structures of a pre-existing conforming home occupation after April 1, 2018 will require a permit.
12. Any home occupation, along with its associated structures, that does not conform with the provisions of this Section will be allowed to continue in its existing state as of April 1, 2018. Any changes in use or structures of a non-conforming home occupation after April 1, 2018 must obtain a permit and must be compliant with these regulations. Maintenance of structures or replacement of vehicles is allowed, but there will be no expansion or alteration of such structures, including signs and land dedicated to operations. Replacement vehicles must be of a similar type to the vehicle being replaced.

A motion was made and seconded to place the second proposed amendment on the ballot. Passed unanimously.

Chair opened consideration for the proposed amendment 3. The board discussed the concerns expressed in the public hearing about the potential for greatly increased residential use in areas transferred from the rural residential to the proposed commercial district where lot size is smaller and apartments are allowed. The board consulted tax maps. Most of the properties are small and lack the potential to greatly increase residential use. The large lots are steeply sloped and steep slope regulations will apply. In making its decision, the board considered the likelihood that any significant residential development will occur in the future given the remoteness of the town, the potential for development in relation to existing lot sizes and zoning regulations and potential conflict with the affordable housing act. A motion was made and seconded to approve the proposed amendment 3 for town ballot. Passed unanimously.

Meeting adjourned at 9:13 p.m.

Robert Helmers
Planning Board Chair
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