

Planning Board Meeting (Special), March 20<sup>th</sup>, 2014

A special meeting was held from 2:00 to 4:00 pm, and a regular meeting from 7:00 to 8:30 pm.

First Meeting – Present: Diane Poland (Chair), Joe Strzegowski (Vice-chair), Dave Chichester and Dave Barten. Absent: Mary McClintock. Presenter: Peggy Sloan (FRCOG planner)

There was a single agenda item for this last of five workshops, the first dating to March 2013, the focus of which had been to upgrade Conway's Protective Zoning Bylaws. Peggy Sloan brought her most recent revision (#4) and final draft of the Protective Bylaws, which the Planning Board will present for the Town's consideration at the Annual Meeting on May 12, 2014.

All members had copies of this final draft version, and the discussion that followed addressed changes that had been made to the previous draft (#3) as a response to residents' concerns expressed at the Public Hearing on February 27, held expressly to draw attention publically to proposed changes in the Protective Zoning Bylaws. Since that Hearing, Peggy had taken into account what had been heard there, but also, as well as Town Counsel John Fitzgibbon's reaction to proposed changes, which could only be read at the Hearing, because they had been received too late to incorporate into the written draft version (#3).

(A) The several changes appearing in draft #4 included:

-- precise definitions of what constitutes a "Cottage Industry" and "Home-based Business";

--addition of "ducks" to definition of "Livestock";

-- reference to the authority to which residents can appeal Planning Board Site Plan Review decisions, which is the Zoning Board of Appeals.

(B) The discussion while focused on specific changes in draft #4, ranged beyond these and other minor changes to include whether livestock farming included horses, which it does not, or horse stables—again not.

Peggy also referred to the "Use Table"—page 4, specifically "Manufacturing, Processing & Laboratories, other than a Cottage Industry". Because this matter of processing and laboratories might seem to have no connection to Conway, she referred to a man in Monroe who designed spray nozzles for Channing Bete, and tested his designs in his home. This she said was an example of "research and development", not a cottage industry nor a home-based business, since he did not offer what he created for sale. So, the reference in the "Use Table" should remain as is to cover a possible inventor in Conway who might work in his home.

The discussion focused on "Business Uses." specifically the maximum size of businesses not covered by the "Cottage Industry," or, as stated in the "Use Table,"

“Retail & Wholesale, with 10,000 square feet or less of enclosed floor area.” To get some sense for a 10,000 sq. foot building, Peggy mentioned Aubuchons on Rt. 2 in Shelburne as being 8,000 sq. feet and that an acre of land is 40,000 sq. feet. The members agreed that no one in Town was likely to want a 10,000 sq. feet building built on an abutting property, and so the “No” to such a building in the Residential /Agricultural District was appropriate. Peggy pointed out that placement of a building of this size in “Light Industrial Zone” would require a Special Permit, because there would have to be numerous issues addressed like how wastewater was removed from the facility, and so on.

Reference was made to Sue MacFarland’s concern, expressed at the Hearing, that restrictions set forth in the Bylaws regarding “Cottage Industries and Home-based Businesses” actually would hinder economic development in Town rather than encourage it. She has a small retail outlet in the center on Main Street where she sells her weavings, and thought she might have to abandon it and confine her business to her home. Joe pointed out to the members that she and other retail operations in town are grandfathered in. However, if Sue were to move her business to her home, according to the new Bylaws she would have to seek a Special Permit and address, among other things the matter of traffic flow through her neighborhood,

The members did not think the changed Bylaws would discourage economic development, for the real thrust was to define clearly the what, where and how of doing business in Conway, so that abutters were protected from having an objectionable business venture suddenly appear next to them.

(C) The members addressed a concern raised by Alice Vigliani about blight in her neighborhood and the need for a Bylaw that would address this specific problem. In her view, the present Bylaw is too weak. A desirable Bylaw would include a financial table of increasingly stiff fines for ongoing failure to clean up what the Bylaw said constituted unacceptable conditions.

Peggy’s response was that the problem in small towns in her experience was that those having authority by law to deal with blight were often reluctant to do so, because this meant taking neighbors, even friends, to court. She posed a possible solution, and this was for the Town to make a third party, such as the Regional Health Agent, the Agency/person responsible for dealing with property owners who were violating what is clearly stated in the Protective Bylaws as “Prohibited Uses—All Districts”, sec. 22.1

It was mentioned that Tom H. was working on a statement for the General Bylaws in which the reference is made to State Law about unacceptable trash and such on properties. It was suggested that it might be useful to expand the statement to include the idea of “non-criminal disposition” or fines for violations, but without the suggestion of criminal violation, thus avoiding court appearances and the risk of a criminal record.

(D) Though Peggy's work on the Board's behalf was officially done with this session, the session shifted to become the first of another series of workshops with her, this time focused specifically on creating a Bylaw about Medical marijuana dispensaries. It seems that a grant sought by the Selectmen had been awarded for her to continue shepherding the Board as it works to update the Protective Zoning bylaws.

Given the need to formulate a bylaw about dispensaries, hold a Public Hearing, and pass it by Town Counsel, the bylaw on the medical marijuana issue formulated with Peggy's help will likely be presented at a Special Town Meeting contemplated for the Fall.

Peggy began this new session by clarifying how dispensaries have to be viewed. Dispensaries involved two processes, (a) cultivation and processing, and (b) dispensing of a marijuana-based medicinal product. A bylaw had to address each one separately, for each should require a separate Special Permit .

Peggy pointed out that the cultivation of marijuana for medical purposes has to be an indoor process, given security concerns, and so municipalities have been assign them to commercial districts where old mill buildings can be renovated for this purpose. She noted that larger municipalities and towns seemed to be inviting promoters to consider locating dispensaries and cultivation facilities in their commercial districts, because the existence of these provide opportunities for municipalities to make money in any number of ways, taxes being one. Easthampton was an example of a community that was beckoning promoters.

Conway as a rural town with no commercial district, rather only a Residential/agriculture and a light industrial one, is likely not a desirable place to site a medical marijuana facility. The cultivation facility would at a minimum have to be 10,000 sq. feet, require lots of electricity, lots of water, and need a means for easy disposal of wastewater and by-products. Conway has no old mill buildings, or municipal water or septic system. Nonetheless, a bylaw has to be formulated that anticipates the possibility that some promoter sees the Town, despite its limitations, as a place in which either to grow marijuana, or to dispense marijuana-based medical products, or both.

Her questions: (1) What would be the scale of an acceptable operation? (2) Where would it be located in town? (3) Where do young people congregate? The Board had to answer these questions and relate answers to the fact of their being two processes. Once done a bylaw could be drawn. She noted in closing that a bylaw should include reference to not altering the character of a neighborhood or the town center. A Special Permit process would allow residents to have their say.

The meeting ended at about 4:00, because Peggy had to leave.

The second meeting, also on March 20, a Regular meeting of the Conway Planning Board, began at 7:00 pm,.