

**April 18, 2017  
Planning Board**

**Present were:** Tom McCue, Lori Langlois, Aline Boucher, Martha Creegan, Greg Estrella, Richard Cassidy, Helene Rayborn, Ex-Officio Members Lucie Remillard and Jen Myers, Alternate Naomi Levesque

Others Present: Michel Salek, Building Inspector, Pamela Laflamme, Community Development Director; Bryan Chevarie, Assessing Coordinator; Micah & Grace Blake

**Public Comments** – No one spoke

**Approval of March Minutes**

Mr. Estrella moved with a second from Mr. Cassidy to approve the March 2016 minutes as presented. So moved, the motion carried.

**Lot Mergers**

**Map 128 Lots 163 & 164—471 & 483 School Street**

This merger was approved two months ago for Lucie Remillard. The lots were previously owned by Lucie and her brother. When she sold the lots she didn't register the merger with the Registry of Deeds prior to the sale. This still needs to be done. The new owner, Mr. Nash has signed off on the merger. There will be now be one parcel number and one address street address.

**Ms. Boucher moved to approve the merger of Map 128, lots 163 and 164 as requested by Mr. Nash; seconded by Ms. Remillard. So moved, the motion carried.**

**Map 138 Lots 50 & 56**

Reaffirming the lot merger for Barry Kelly that the Board approved back in January. Mr. Kelly did not come in and sign until last week. Due to the lapse in time we decided to reaffirm the merger. When this goes to the registry we just want to make sure that paperwork wise that condition of sale is met timewise.

**Ms. Remillard moved to approve/reaffirm the merger of Map 138 lots 50 & 56 previously approved on January 10, 2017; seconded by Ms. Boucher. So moved, the motion carried.**

**Accessory Dwelling Unit (ADU) Discussion**

Senate Bill 146 will take effect this June. Ms. Laflamme reviewed the attached documents from the Office of Energy and Planning. She explained that there are several different zones within the City where Single Family Homes are allowed. By rule right now our zoning has not allowed for in-law units or ADUs.

Ms. Laflamme read through the purpose of the ADU law as explained by a handout from the Office of Energy and Planning. Some of the reasons cited by the legislature do not apply to Berlin such as availability of workforce housing, however, people have asked for traditional in-law apartments that the City has not allowed before.

There was discussion on how the ADUs would be regulated. Conditional use permits issued by the Planning Board give a lot more latitude and seem to be a lot more flexible; specific to the use. Special Exceptions issued by the ZBA are more black and white decisions and not as subjective. There would be a specific checklist used every time to make the decision. In addition, the Planning Board meets on a much more regular basis and does other types of reviews that this will fit into their duties.

The City does not have an ordinance for ADUs at this time. If one is not made the state has set minimum provisions that shall apply.

Ms. Laflamme read through the ADU Standards (attached), what must or may be in the regulations and must not. Some concerns brought up were: what happens when the property owner no longer lives in the residence and the property remains in the owner's name? Attention should be given to applications that come in for properties on well and septic. Also, while the board feels that a Special Exception should be given to Attached ADUs, a Conditional Use Permit should be issued for Detached ADUs.

Mr. McCue remarked that the Board should start by making the ordinance very restrictive up front then have the opportunity to ease off once they see how ADUs are working. The City Council can amend the ordinance relatively quickly if they find that it is becoming a problem for a lot of people.

Ms. Laflamme read through a proposed draft ordinance. She stated that if a standard conflicts with a building code then the code will take precedence. There was discussion regarding ADUs being in zones where two family homes are already allowed and whether or not a second electrical meter should be allowed. Ms. Creegan stated that she thinks the Board really needs to distinguish a Single Family Home and an ADU. Notes were made to reflect the Board's thoughts regarding each section of the proposed ordinance. Ms. Laflamme reminded the Board that the ordinance has been written so that people can apply for a Building Permit for the ADU and not have to come before the Planning Board each time an ADU is proposed. If a Conditional Use Permit is issued, it will come through the Planning Board.

Ms. Laflamme requested that unless Chris Boldt, the City's attorney, strongly disagreed with the Ordinance as proposed, with the Board's changes, that she be allowed to bring it to City Council as a Conditional Use Permit unless he feels it is absolutely doable as written.

Mr. McCue would like all applications for ADUs to come through Planning Board and if they find these are really routine and there aren't a lot of issues or a lot of problems then they can modify the ordinance.

Ms. Creegan asked what would be required to apply? Ms. Laflamme replied that they would apply for a regular building permit and the checklist of the City's requirements.

Regarding detached ADUs. Mr. McCue stated that he does not think we should go down this road yet. That many communities are choosing not to do these right now with everything they are going through with the ADUs. Ms. Laflamme read over the proposed ordinance for Detached ADUs and recommends that the board wait to see how attached ADUs will be dealt with then determine if they would like to move forward with Detached. Mr. McCue replied that if there was demand and people were asking for Detached ADUs then they can be addressed at that time.

Ms. Laflamme would recommend bringing the draft to council. Council will talk about it over two nights. They will have their public hearing at the May 15 meeting.

**Ms. Creegan made a motion to draft an ordinance (Sec. 17-29 attached) to bring to City Council, as a conditional use permit; seconded by Ms. Boucher. So moved, the motion carried.**

### **City Owned Property Parcels Project**

This is not ready. Mr. Salek, Ms. Myers, Ms. Laflamme, Ms. Tremblay from the City Manager's office, Mr. Jim Wheeler and Ms. Chase the City Comptroller went over the tax deeded parcels that City Council would like to put out for sale this summer. It won't be as easy as in the past as we no longer have a budget to tear down houses. There are a few land parcels that we can put out for sale but even in the large list the City Council wants the board to review (approximately 150) there are more that the City needs to keep than sell. Ms. Laflamme needs to go look at a few to see why the City has been retaining them. She will also send Public Works out to check out a few. The list will hopefully be ready for the May Planning Board meeting. The Tax Deed list will be included.

### **Lot Merger Changes**

The lot merger RSA has changed. There is now a requirement in the statute that says you must notify mortgage holders of the intent to merge. There is no language around this, it is very vague. Mergers are usually voluntarily and they are easy. We just need to develop a policy. Ms. Laflamme is going to draft some language. Mergers will need to come in so many days before the next Planning Board meeting, we will give notice, and then the mortgage company will have so many days to respond. If we don't hear back we can merge.

The new language has zero explanation so the City would like to have some backup to say they've done their due diligence.

Mr. McCue remarked that this is going to take some time. Do we notify the mortgage holder or the servicing company?

**Solar Ordinance Discussion**—Deferred to May meeting maybe June

**Project Updates**—Deferred to May meeting

### **Other**

Landowners in an Industrial/Business Zone on Route 110 have come to the City wanting to have the area rezoned to Jericho Gateway. This is something the City has wanted to do and previously the land uses were not in line with the Jericho Gateway description. Now that the largest land owner out there is interested in it and feels it is more in line with the things he'd like to do with his property. Mr. Bob Chapman owns what was formerly the Bass Shoe property and the building has been demolished. Other landowners in that section have also expressed interest. We don't spot zone, so we need to think about what is going on out there and there is a lot of interest and things happening out on Route 110 recreationally. Jericho Gateway includes a mix of recreational, retail and residential. It has a lot of expanded uses that are different than Rural Residential. Ms. Laflamme would like to propose that if the Planning Board is so inclined to make the change to this area, from Jericho Deli to Head Pond Road, that she could take it to City Council at their May 2 meeting.

**Ms. Langlois made a motion to recommend the zoning ordinance be amended to change the Industrial Business section (map attached) to Jericho Gateway Zone seconded by Mr. Cassidy. So moved, the motion carried.**

### **Public Comments**

**Micah Blake, 213 Park Street, Berlin, NH**

ADU discussions, seems somewhat weird that you would have anything about the electric or utilities in there that a single family could already do it. If I feel like doing an extra panel I can. When my older brother moved back home my parents put the electric in his name and this helped his credit so that he could move out. Are you going to require any single family units with 2 meters to take one down?

**Grace Blake, 213 Park Street, Berlin, NH**

Snow birds. What if you go down to Florida or Arizona for the winter? How long are you allowed to reside in another state before the ADU has to be converted? What if you get sick and end up staying longer away from the property with the ADU? Would they be able to

apply for something for special circumstances? Is it my understanding that you couldn't have the ADU owned by a trust?

There was some discussion regarding trusts. Mr. McCue replied that it depends. With revocable living trust it would be the owner's name. Irrevocable would be the trustee of the trust who is living there. Ms. Blake stated that it seems like people are putting their properties into trusts now.

### **Member Comments**

Ms. Creegan brought up her membership and when it would expire. There was some discussion. She stated that this will be her last term. It expires April 2019.

Mr. Estrella wondered if North Country Growers had looked into local grocers carrying their produce. Ms. Remillard is corresponding with them and has not gotten an answer for this yet. It was reiterated that NCG does not have control over where the produce ends up, it all depends on the distributor.

Mr. McCue stated that there will be a Planning Board Basic Training session June 10. He is also sad to see the WREN Farmers' Market move to Gorham, however he is happy to see trailhead work that has started and that the City Hall elevator project is back in the works.

### **Planner Comments**

There was a brief discussion regarding WREN moving the Farmers' Market to Gorham.

There being no further business to come before the Board Mr. Cassidy moved to adjourn; Mr. Estrella seconded and the motion carried. The meeting ended at 8:55pm.

Jen Myers  
Administrative Assistant