

PLANNING BOARD MINUTES
WEDNESDAY, MARCH 17, 2021
REMOTE MEETING – 6:30 P.M.

Present: Jud McIntosh, Christa Schwintzer, Dave Thompson, Michael Costello,

Absent: Lisa Buck, John Beckett, Phil Ruck

Town Staff: Kyle Drexler, Jessica Chadbourne

Acceptance of the Agenda

Jud McIntosh asked for a motion to accept the agenda.

Motion: Michael Costello

Second: Dave Thompson

Mr. McIntosh then asked Jessica Chadbourne to take a roll call vote. The vote to accept the agenda passed with four for, none against.

Approval of the Minutes of the February 17th Meeting

Mr. McIntosh pointed out that with only four people in attendance, and only three who had been present at the February meeting, they did not have a quorum. Mr. Drexler agreed and recommended that the board table any vote to approve the February minutes until the April meeting of the Board.

Mr. McIntosh asked for a motion to table the minutes.

Motion: Christa Schwintzer

Second: Michael Costello

Mr. McIntosh then asked Jessica Chadbourne to take a roll call vote. The vote to table the minutes passed with four for, none against.

Old Business

There was no old business to discuss.

New Business

Item A: An amended subdivision by Forest/Orono Associates, LLP for the Forest Hollow Subdivision located on Grant Rd in the Low Density Residential District to recreate lot 20 from the originally approved subdivision which had previously been combined with other lots on the east side of Grant Rd.

Mr. McIntosh asked Mr. Drexler to provide his report to the board. Mr. Benson's application this month is similar to his project from February and to other previous visits to the Planning Board. Due to new interest in the subdivision as a result of recent changes in the housing market, Mr. Benson is coming to the board for approval to reform lots from the original subdivision plan. These lots were combined a number of years ago to reduce the taxes on land that was not selling, and Mr. Benson is looking to recreate them according to the original plan.

Mr. Benson then presented his application to the Board. He corroborated what Mr. Drexler had previously stated with regards to the consolidation of the lots, explaining that between 2006 when the subdivision was formed and 2018 he sold a total of three lots. So in 2018, as the properties were not

selling, he unsubdivided the land for tax purposes because the taxes were nearly \$20,000 a year. In 2020 he brought two lots back because he had sold two in previous years, and last month and this month's lots already have buyers.

Mr. McIntosh opened the public hearing. While waiting on comments from the public he asked the Board if they had any questions for Mr. Benson. Mr. Thompson asked about the trail that leads off the end of the cul de sac on Grant Rd, and whether it interfered with Mr. Benson's plans for the subdivision. Mr. Benson replied that it did not, and Mr. Drexler explained that the recreational footpath easement between lots 20 and 21 was part of the 2006 subdivision plan and would remain the same as when the plan was originally approved. Hearing no additional questions from the board or the public, Mr. McIntosh closed the public hearing and read in the findings of fact (Attachment A).

Motion: Michael Costello moved that the Board accept the amended subdivision by Forest/Orono Associates, LLP for the Forest Hollow Subdivision located on Grant Rd in the Low Density Residential District to recreate lot 20 from the originally approved subdivision which had previously been combined with other lots on the east side of Grant Rd, with the following conditions:

1. That all findings of the Planning Board with respect to this development at its meeting of July 19, 2006, and all conditions of approval and requirements pertaining thereto, are unchanged and remain in place.
2. That the applicant be granted an approved Site Location of Development Law land use permit for the amended plan by the Maine Department of Environmental Protection and provide evidence of such approval to the Town.
3. That the signed, amended subdivision plan, to include conditions of approval that run with the property, be recorded at the Registry of Deeds within 90 days of approval of the amended plan.

Second: Christa Schwintzer

Ms. Chadbourne took a final roll call vote. The motion to approve the application passed four for, none against.

Item B: A draft Land Use Ordinance amendment to amend Sec. 18-106, Schedule of dimensional requirements, by reducing the minimum lot size and minimum lot frontage requirement in the Medium Density Residential District; as well as to create Sec. 18-114, Village Residential Overlay District, which would allow lots located in the Medium Density Residential District within approximate walking distance of the downtown area to utilize higher densities if certain standards are met.

Mr. McIntosh invited Mr. Drexler to make his presentation to the Board. Mr. Drexler provided a brief overview of his February meeting presentation about the proposed ordinance amendments. The two amendments are meant to tackle similar goals, which is why they have been grouped together for the purposes of this discussion. In brief, they are aimed at creating more affordable home ownership opportunities in the town's residential growth area, and at taking advantage of the town's existing infrastructure and amenities, specifically the downtown with the existing utilities, services, public transit, etc. The proposed amendments also provide more flexible opportunities for home and property owners in the area.

The overlay district being proposed would be an optional tool that property owners could choose to take advantage of if they wished. No one would be required to utilize the overlay. Property owners that choose to do so would be taking advantage of the higher level of density possible under the overlay. Minimum lot sizes would be reduced from 20,000 sq ft to 7,500 sq ft with a 5,000 sq ft per

dwelling unit minimum lot size requirement. The goal is to encourage smaller lots that still fit in with the character of existing neighborhoods but provide lower land prices and opportunities for smaller houses on less land to promote affordability. There are standards that come into play if a property owner elects to take advantage of the overlay, such as: to take advantage of the overlay the property owner must have a deed restriction requiring the property to be owner occupied, or if you have a two family home it would require at least one of the units to be owner occupied.

The final sections of the proposed amendment discuss the design standards which are aimed at using traditional neighborhood development techniques where you're supporting the intersection of streets and certain design features that promote that classic neighborhood feel that people associate with pre-suburbanization development. It allows for things like alleyways that lead towards larger parking areas that are out of the way, it requires a certain amount of open space, and similar concepts. He then asked for any questions that the Board might have about that piece of the ordinance.

Mr. Thompson asked about section 6.3.2, which calls for trees to be a part of the sidewalk design in these neighborhoods, pointing out that the tree board doesn't recommend planting, and won't plant, trees underneath power lines. He suggested that a provision be added to the ordinance that if the sidewalk is underneath power lines, trees planted be species that do not grow above a certain height to avoid their having to be cut down in the future. Mr. Drexler agreed that would be a useful addition and would allow the Planning Board to make that a requirement of any project that should come before the board.

Mr. McIntosh pointed out that most of the area covered by this village overlay was already developed except for two large open areas, and one of those areas consists of enough acreage that a fairly large housing project could be developed there. Mr. Drexler responded to two points raised by Mr. McIntosh's observation:

1. The existing MDR lot size requirement is 20,000 square feet, but if someone came forward with a subdivision plan for one of those open areas right now they would likely use the Town's cluster development standards, which would allow for four dwelling units an acre in that area in this area.
2. Also the idea behind this ordinance amendment is less that lots would split to allow for the construction of new single family homes and more that the change in lot size minimums would allow for more homes to expand to become two family homes. Anyone in the area with a single family home on a lot that is at least 10,000 sq ft, could agree to the deed restriction and then expand the single family home to a two family home which could then be used as a rental since the original home would already be owner occupied.

So the idea of the overlay is twofold: to allow some new more traditional neighborhood design subdivisions to go into place, and also to allow for some infill development in existing neighborhoods that are already developed.

Mr. McIntosh followed up with a question about the deed restriction, asking how it would be enforced particularly in the case of scenario 2, the two family homes. Mr. Drexler replied that it would be similar to the current requirements for accessory dwelling units, namely that the property be registered with the town which also requires there to be a primary owner occupied dwelling on the property. It would be handled through the permitting process initially and once approved the deed restriction would be filed with the county registry of deeds. Enforcement during the ensuing years would be handled through the rental registration process, which would each year verify that only one half the building was being rented and the owner registering the property was still occupying the other

half.

Mr. McIntosh asked if there were any questions from the other board members. Hearing none, Mr. Drexler presented the second piece to the proposed amendment: an amendment to the dimensional requirements for lots in the MDR in general that have access to town water and sewer. This does not apply to lots on the outskirts of the MDR that have a well or septic system. It reduces the minimum size of those lots from 20,000 to 15,000 sq ft and it would reduce the minimum lot frontage from 100 ft to 80 ft. It is a smaller change but it applies to every lot automatically so it doesn't allow for as drastic a change as the Village Residential Overlay but again it does allow for the creation of new homes/new two family homes in order to create greater housing opportunities in the district.

Mr. McIntosh asked if there were any questions about this second part of the proposed amendment. There were none, so Mr. McIntosh asked for a recommendation that the proposed ordinance amendment move forward to the town council.

Motion: Ms. Schwintzer motioned that the Board support the proposed amendment to the Orono Land Use Ordinance to amend the zoning standards in the MDR and downtown area with the recommendation that language be added to 6.C.2 stating that any trees planted under power lines be species that are limited in height and will not grow into the powerlines.

Second: Michael Costello

Ms. Chadbourne took a final roll call vote. The motion to recommend the ordinance amendment to the Town Council passed four for, none against.

Item C: A draft Land Use Ordinance amendment to create Sec. 18-153, Solar Energy Systems, amend Sec. 18-106, Schedule of Uses, and amend Sec. 18-31, Definitions, to define, zone, and create performance standards for solar energy systems in the Town of Orono.

Mr. McIntosh invited Mr. Drexler to make his presentation to the board. Mr. Drexler explained that this amendment had come about because the Town does not currently have any language in the Land Use Ordinance, with regards to definitions and standards, dealing with solar panels or large scale solar facilities. In summer of 2020 the Town Council adopted a moratorium on large scale, commercial solar projects to allow time for the creation of ordinance language pertaining to such projects.

The ordinance language is meant to provide guidance for every level of system from small scale residential type to the large scale multi-acre commercial projects. There is currently no moratorium on small scale individual projects, but the ordinance does still pertain to those projects. It was not, however, intended to limit those types of projects. In the proposed use table on page 2 you can see that roof mounted systems and small scale ground systems only require a building permit from the Code Office. Such systems don't create enough of an impact to require Planning Board review, and the Town wants to allow and promote such installations.

When potential projects move into the medium and large scale range they will be required to come to the Planning Board for site plan review, and we start to get into the idea of zoning those more in particular zoning districts. For example: medium scale systems are defined as any system between 1500 sq feet and two acres. Those would not be allowed in the village commercial where the lot sizes are very small and you want to keep land uses close together and walkable. Zoning for large scale ground mounted systems, on the other hand, is more geared towards rural and commercial zones.

Mr. Drexler then provided a brief overview of some of the standards that would be applied to larger scale projects, from location on the property (in order to maintain the appearance on a property -

similar to the parking ordinance with regards to off street parking needing to be located on the side or at the back of a lot), to utility connections being promoted, to having an emergency service plan in place with the town, and to standards for decommissioning a project. The decommissioning aspect was discussed at length during the council committee, and will require an applicant to provide an improvement guarantee upfront to account for the cost of removal should the project be abandoned. The cost of removal will be re-estimated on a five year basis.

In general, this proposed amendment is aimed at supporting and allowing solar energy systems of all sizes in the town, especially individual small scale systems. By creating solar systems as a specific land use it provides the Board with a better method for reviewing such projects when they come forward.

Mr. Costello asked, as a basis for comparison, what scale the solar project in Veazie would qualify as. Mr. Drexler replied that he was not familiar with the project. Mr. McIntosh suggested that, based on the size of the array, that project would be considered just a bit larger than a small project as defined by the proposed ordinance. To provide further reference, Mr. Drexler pointed out that most of the existing projects in town would be considered small scale at a few hundred square feet. There is one that is around 300 square feet that under the new ordinance would have been considered medium scale and would have had to come to the Board for review.

Mr. McIntosh asked about section 3.A.2 with regards to the allowable height of installed systems, whereby systems are capped at 12 ft unless there is a setback of 30 ft, at which point systems can reach up to 24 ft. Mr. Drexler clarified that the section was talking about different placements of systems on a property. It pertains to small and medium scale systems which are capped at 12 ft in height unless they are set back an additional 30ft from the original property set back, at which point those small and medium accessory systems can be allowed to reach 24 ft.

Mr. McIntosh asked if there were any other questions or comments from the Board. Ms. Schwintzer asked if Mr. Drexler had consulted any of the major installers of solar systems in the state to see if they had any input on how we would approach this. Mr. Drexler replied that they had looked at a couple of model ordinances from the state level both here and other places, and those ordinances were drafted on the recommendation of people from the solar industry. That's where certain specific standards came from. They also had conversations with people in the field that were aimed at shaping how we break down the classifications of the three project scales. Through the committee level we also had public comment from people in the field or in a related field of sustainable energy.

Ms. Schwintzer also asked about Section 4, vegetation management, item E: No prime agricultural soil or significant topsoil shall be removed from the site of installation of the system, and what "significant topsoil" consists of. She recommended that there be either a mechanism for deciding what that is, or an explicit value listed in the ordinance. Mr. McIntosh agreed, pointing out that a set value would be preferable to the Board having to make a decision on what is "significant" each time a project comes up for review.

Ms. Schwintzer then brought up the section on "visible impact", and what the measures are, exactly, that needed to be taken to screen a system from the street in order for it to be sufficient. Mr. Drexler agreed that clarifying criteria could be introduced to the ordinance to help the reviewing authority make that determination.

The board decided to table any decision on the solar systems ordinance until next Planning Board meeting in order to allow the absent board members to comment and to allow Mr. Drexler to make some of the requested changes to the ordinance language.

Motion: Christa Schwintzer moved that the Board table the draft Land Use Ordinance amendment to create Sec. 18-153, Solar Energy Systems, amend Sec. 18-106, Schedule of Uses, and amend Sec. 18-31, Definitions, to define, zone, and create performance standards for solar energy systems in the Town of Orono until the next Board meeting.

Second: Michael Costello

Ms. Chadbourne took a final roll call vote. The motion to table the ordinance amendment until the next Planning Board meeting passed four for, none against.

Other New Business

There was no other new business.

Discussion

Mr. Drexler informed the Board that it looked like remote meetings would be in place until at least June, at which point the town will reevaluate. Ms. Schwintzer asked if there was anything planned for next month. Mr. Drexler replied that he believed there would be something, as there were a few unfinished project applications in place that he was working on.

Adjournment

Mr. McIntosh asked for a motion to adjourn the March meeting of the Planning Board.

Motion: Dave Thompson

Second: Christa Schwintzer

Ms. Chadbourne took a final roll call vote. The motion to adjourn the meeting passed four for, and the meeting was adjourned at 7:45 pm March 17, 2021.

Attachment A

**PROPOSED FINDINGS OF FACT
FOREST HOLLOW SUBDIVISION
AMENDED SUBDIVISION REVIEW
March 17, 2021**

Pursuant to Article VII, Section 18-210 (Subdivision Review) of the Orono Code of Ordinances, the Orono Planning Board has considered the application of Donald Benson to amend the Forest Hollow Subdivision, originally approved in July 2006 and amended in February 2018 and June 2020, by recreating lot 20 as it was depicted on the 2006 original subdivision plan. The property is located in the Low Density Residential (LDR) District on Grant Road, and, based on all evidence presented by the applicant, reviewing agencies, and town departments, and the public, the Planning Board found the following:

1. **Lots:** That the proposed amendment will recreate lot 20, as it was approved by the Planning Board in the 2006 subdivision review, from the retained land area on the east side of Grant Rd.

Further, that lot 20 meets the minimum dimensional requirements of the Low Density Residential District.

Further, that any future division of the retained land which constitutes the creation of subdivision lots, will be subject to Land Use Ordinance standards in effect at the time of the subdivision.

2. **Drainage Improvements:** That the amended subdivision plan does not alter the previously designated and approved protected runoff drainage buffers that are part of the approved stormwater management plan.
3. **Open space, wildlife habitat, wetlands, and recreational land:** That the amended subdivision plan does not alter the previously designated and approved significant wildlife habitat buffer, vegetated buffers on lots 1 and 2, and the recreational path easement.
4. **Overall finding as to the other elements of the Forest Hollow Subdivision:** That recreating lot 20 from the original 2006 subdivision plan will not affect any previous findings leading to the original approval of the Forest Hollow subdivision and will not adversely affect any element of the original approval, including standards for sewer and water utilities, pollution control, stormwater management and drainage improvements, the roadway and traffic circulation, or financial and technical capacity.

Further, that all other findings of the Planning Board with respect to this development at its meeting of July 19, 2006 are unchanged and remain in place.