

Town of Tamworth

Planning Board

*** draft TIZO HEARING MINUTES ***

November 16, 2010

Meeting called to order at 7:04 pm at the Brett School Cafeteria

Members Present: Dom Bergen Chairman, David Little, Steve Gray, Skip Nason, John Roberts
Selectmen's Rep , Becca Boyden, Nicole Maher-Whiteside, Peg Huddleston (LURC), Bob Abraham
(LURC), Lianne Prentis (LURC)

Members Absent: Nat Scrimshaw (LURC)

Alternates Present: Pat Farley, Peter Vanderlaan

Alternates Absent: David Cluff, Tom Peters

Nicole opened the discussion with a history of how the Planning Board got to this point with the TIZO. She reviewed the following – Tamworth Master Plan and survey, six (6) public forums, 120-140 citizens participated, and reaching consensus in the Land Use Regulation Committee.

Dom called the hearing to order at 7:15 pm and reviewed the rules of procedure.

David Little began the discussion with a review of Article 1. He spoke about the laws authorizing this document. The Statement of Purpose is to ensure the rural character of Tamworth, protect public health and safety, and to be a good neighbor. The title of this document must contain zoning, by law. A vote of 51% or more is required for this ordinance to pass. The Committee has tried to create a process that is not burdensome.

David Gaudet asked that Dom read the title to Article 674:21. Mr. Gaudet presented written evidence that he would like the Planning Board to review. He feels that the title of this document should be the Tamworth Innovative Land Use Control Ordinance.

Paul King – addressed Article 1.3 - “structures” needs definitions

1.5 – process – Paul has 3 questions – who applies, what approval do you apply for, and criteria for approvals. He believes that there was discussion at the committee meeting to exempt residential, but does not see it in the ordinance. Nicole responded that anything that is missing was left out intentionally.

Becky Mason – 1.3 – would like to see glossary of terms that includes construction, erection, movement, repairs, etc. as listed in 1.3

Ned Beecher – feels that with an ordinance, procedures will be adopted, therefore do not have to be explained in this draft. He feels that the objectives are good.

ARTICLE 2 – Dom states that this article is self explanatory

Paul King asks if it is factually correct to state that we have one district, since we already have floodplain and wetlands districts. David Little responded that these are overlay districts. Paul asked if this is an umbrella zoning ordinance, and how it works with the existing cell tower, floodplain, and wetlands ordinances. Becca stated that those ordinances are stand alone ordinances, and do not conflict. Paul would also like to know why this is not combined with the proposed groundwater ordinance.

Kate Thompson feels that it is better to keep the ordinances separate.

ARTICLE 3

Lianne Prentice gave an overview of Article 3. Performance Standards were the process used to create this document. Criteria was that the standards must be measurable by the average person, with no special equipment. One item that was removed was NOISE, as the committee could not reach consensus.

Ernie Mills commented about protecting property rights, and that a lawyer has commented that this is a horror show because it is written so loosely.

Karen Galle – 3.2 – 20' setbacks – development refers to setbacks, does this include fencing? 3.4 – developed or development, definitions are needed. 3.11 – would like examples of substances

John Wheeler – 3.6 – what is disability glare? Perhaps need a better term. 3.8 – stormwater runoff, is this rate or amount?

Jack Waldron – said a thank you to the committee. He commented that 3.6 light pollution is not measurable. 3.11 – would like to know if this includes compost.

Dave Haskell – 3.6 light – he would like this amended to say “with the exception of flagpoles.” He feels that failure to have a flag at this meeting is disgusting.

Paul King – 3.2 – feels that the setbacks are too restrictive. Uses could mean lawns, gardens, privacy hedges, and that this is not reasonable for a village setting. Existing residents will fall into the non-conforming category. He feels that it is not consistent with the NH Shoreline Protection Ordinance.

Peter Vanderlaan – in the case of non-conforming buildings, renovations require that the entire building be brought up to code.

Paul King – 3.3 – is in conflict with the wetlands ordinance, and need clarification. 3.4 is very restrictive, taking without compensation. 3.5 is very restrictive and is taking without compensation. People do not have the ability to measure slopes. A stormwater management plan is very involved and expensive. Walkout basements make ideal solar homes. 3.6 needs numbers. 3.7 – existing businesses have more than this will allow, making them non-conforming. 3.8 – you can control rate, but not quantity. Any project will put sediments, oils, etc. into the soil – there is no way to meet this. Stormwater management plans are very expensive and this is a low threshold. This is severe overkill. RSA 149:8A requires big projects to have a plan. Paul feels that this is unnecessary at this level. This is inconsistent with the groundwater protection ordinance. 3.9 – dust/dirt can come from a gravel driveway, and flyash is a byproduct of all woodstoves. 3.11 – singles out manure and compost piles.

Donna Polhamus – Can't variances be issued, for slopes, for example?

Doc Lowe – speaks regarding gauging unhealthy – which requires measuring VOCS, vapors, fumes, etc.

Lincoln Page – 3.2 – feels that small lots can not meet this. He feels that this ordinance is wide open.

Helen Steele – asks if 10 trips per day applies to agricultural uses. Nicole stated that agriculture and forestry uses are exempted by state law.

Mark McConkey – Concurs with Paul King regarding 3.4. If this is adopted, and the groundwater protection ordinance is adopted, people will be hampered.

Ernie Mills – would like to know how many hundreds of thousands this will cost the taxpayers in the first year.

Ron Brooks – People are hurting for money. We don't need this right now. We can not afford it. More lawsuits, more problems, hidden crap in this town.

Sue Colten – likes the idea of performance standards

Becky Mason – 3.12 – add in exceptions

Ken Galle – do exemptions apply to entire document?

Kate Vachon is confused by the definition of “development”

Geoffrey Cunningham – slow to accept performance standards vs. district zoning, but is very pleased with the work that has been done. He feels that this ordinance does not distinguish between a helipad and a residence. He feels that 20' setbacks are too close. He feels that the ordinance should gear toward businesses one way and residences another way. He is concerned about traffic, and does not feel that the 25% slope is excessive.

ARTICLE 4 -

Peg Huddleston gave the overview of Article 4.

Paul King applauds the committee, however, he feels that this is a flawed document that is very restrictive. This whole section is extremely restrictive.

Kate Vachon is confused about whether this means size or use.

Tom Vachon understood that this ordinance dealt with building and land, not personal

Paul King – Use 1.3 is what zoning is all about. Variances are much harder to get through a ZBA.

ARTICLE 5

Becca gave an overview of this section, stating that it allows flexibility in the subdivision regulations. This section is required to be in the document in order to enable the planning board to revise the subdivision regulations to include conservation subdivision incentives.

Pat Farley noted that the numbering is incorrect in articles 5, 6, and 7.

Paul King disagrees with Becca. He feels that this is already in the subdivision regs as cluster housing, and that this does not need to be in this document at all. He would like to remove this section, and add it into the subdivision regulations.

Becca – we will check into this, we were lead to believe that it was required in this document.

ARTICLE 6

- Addresses the board of adjustment. As Paul King recalls, it may be that you go to the ZBA to appeal a planning board decision. If that is the case, the first sentence needs to be modified. David Little replied that RSA 676:5 section 3 requires appeals to go to Superior Court.

In section 5.2, Paul would like clarification about who is the administrator.

ARTICLE 7

Ken Galle – 6.1 – who decides the amount?

ARTICLE 8

No comments

APPENDIX –

John Wheeler – under buildings, it should read are “not” regulated, emissions excludes released to ground, and under setbacks, he would like to know what the same as “what” on the same lot is.

Becky Mason would like better definitions, eg repairs, fumes, etc.

Kate Vachon - the definition of buildings is not clear

John Wheeler – make the definition of development more clear

Paul King – If article 5 is deleted, delete buildable areas, dwelling, non buildable area. Definition listed for impervious surfaces appears plagiarized from the wrong application, applies to hazardous waste. Paul believes that a section of Cleveland Hill Road is a state road, and therefore Class II. Under setbacks, what does open and unoccupied mean? He feels that the stormwater management plan was also plagiarized from the wrong application.

Nancy _____ - Wants to know how impervious surfaces apply to gas station/auto shop

Alex Cook appreciates the work that has been done. She states that the ordinance is not trying to make it difficult, however, it is adding another layer of bureaucracy. These ordinances will have people building low quality buildings. She feels that this is not protecting her land, it is taking away her rights without compensation. This is ill prepared, and needs a lot of work. Variances will be costly and difficult. She would like to see historic village district.

Kate Vachon would like to see relationships between zoning and tax rates for towns of our size.

Tom Vachon would like to know the correlation between zoning regulations and robust business developments. Businesses hesitate to come to a climate of complete uncertainty.

Becky Mason would like to see the costs associated with this draft. Application fees, variance fees, enforcement officer, etc. She would like to see this in the Selectmen’s budget. She wants to see the total package, and is concerned about variances.

Steve Gray asked the chairman to poll the audience to see how many people plan to attend the work session on December 8, to be sure that an appropriate location is noticed.

Sheldon Perry – the objectives of this document – anyone would argue that these are good objectives. As a town, we must decide how good the objectives are. This keeps us thinking about who we are and what we are doing. Invest a little of our time and support it.

Lori Bonica – echo what Becky said. Current use land is not available for taxes. Think about unintended consequences that may result from this ordinance. Thank you to Paul for his comments.

Ernie Mills – asks if there is any other town in NH that has this type of regulation. -- Whitefield NH uses performance standards.

Dom closed the hearing at 9:08 pm.

A work session is scheduled for December 8 at 7pm, location to be announced.

Respectfully submitted,

Melissa Donaldson

Planning Board Clerk