

Montague Planning Board

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February 26, 2013 6:30 PM
Town Hall Downstairs Conference Room

MEETING MINUTES

Members Present: Ron Sicard – Chair, Bruce Young, George Cook, Fred Bowman and Bob Obear

Members Absent: None

Staff Present: Walter Ramsey- Town Planner, David Jensen – Building Inspector (7:10 pm)

Meeting was called to order at 6:30 PM by Ron Sicard

Approval of November 27, 2012 and January 22, 2013 Minutes:

Motion was made by George Cooke to accept the November 27, 2012 minutes. Seconded by, Bruce Young. Motion passed 5-0

Motion was made by, George Cooke to accept the January 22, 2013 minutes. Seconded by, Bob Obear. Motion passed 5-0.

6:30 PUBLIC HEARING: Zone Change 2013-01 West Mineral Road, Turners Falls, MA.

The Planning Board will consider a zoning map amendment for +/- 74 acres of land located on W. Mineral Road identified as Assessors Map 25 Lots 01, 02, and 22 and Map 18 Lots 6 and 7 from an Industrial to an Agriculture-Forestry-4 District.

Guest(s): Dave Gendron

The Gendron's first initiated a petition to rezone 52 acres of their property. The Planning Board held a public hearing on the matter in December 2012. At that time the Planning Board recommended that there should be more thought given to the zoning of the nearby land.

Walter R. offered the following points regarding the proposed rezoning:

- No Sewer or water is provided on West Mineral Road
- West Mineral Road is a dead-end country road
- Current land use is agricultural/residential
- Taxes are based on current land use, not zoning
- There are no municipal plans for industrial use or industrial park expansion
- All properties are in private ownership
- 45 acres are in permanent protection through Agriculture Preservation Restriction
- There is no significant wetlands system on the northern portion of the land
- Proposed zoning would allow built out - up to 8 single family units, (exclusive of permanently protected land). More realistically four or five could be built based on current parcelization.
- Two non-conforming lots would be created
- AF-4 is the zoning district most conducive to creating large tracts of connected forest space. This area is identified in the 2010 Open space and Recreation Plan as a forested corridor that would connect the Montague Plains to the Connecticut River

David Gendron sold development rights for 45 acres of his land to preserve it. There is a portion that the state did not want and so they wanted to place it in protection.

Karla Kozik– is the property owner with the largest parcel that abuts the Gendron property. That land is currently in Chapter 61 A protection and she had no objections to the zone change. Walter spoke with her on a phone.

Walter sent a personal letter to all affected properties. No other comments were received.

Walter R. said that he would want the Planning Board to consider the cost of giving up more Industrial Zone land. “It is easier to change a zone from Industrial Zoning to Agriculture – Forestry, than to go from Agriculture-Forestry to Industrial Zoning. The land is permanently protected but you are taking away what possibly in the future could be used as industrial zoned land due to its placement near the Airport.” The future use would have to consider runway regulations and would fall under Federal Aviation Administration approval regardless of the zoning. There are also archeological limitations where the hill is located.

Industrial development on this area is severely limited by development constraints.
NHESP – there is a portion of land that falls into that category.

The state is buying up conservation restrictions in this area and the town has not been approach for this.

Bruce Y. brought up the point if the zone change happens then there is an assumption that the property owner loses monetarily due to the change from Industrial to Agriculture.

Walter R. residential use is not allowed in an Industrial zone not even by a special permit. He believes this is not a viable option for Industrial development due to all the constraints. The infrastructure is being developed off of Turnpike Road for long term industrial development.

Motion was made by Bob Obear to close the Public Hearing for West Mineral Road zoning change. Seconded by, Fred Bowman. Motion passes

***Motion** was made by Bob Obear to recommend the zone change for West Mineral Road to the Selectboard to place it on the warrant at the May 2013 Montague Town Meeting. Seconded by, George Cooke. Motion passes 5-0.*

7:00 PUBLIC HEARING: Zone Change 2013-02 Bylaws Section 5.4.7 (Minimum Square Footage for Dwelling Units).

The Planning Board will consider a proposed amendment to the Montague Zoning Bylaws Section 5.4.7 (Minimum Square Footage for Dwelling Units). The Board is considering striking the text of section 5.4.7 in its entirety but it will also consider amending the language to allow on special permit dwelling units with less than 700 sq ft of living space exclusive of basements, areas with less than six feet of ceiling space, porches, terraces and the like.

Guest(s): Roy Rosenblatt, Lee Wicks, Elliot Tarry, Chris Curtis – Reporter Greenfield Recorder, Mike Jackson –Montague Reporter, David Gendron, Sam Lovejoy, Mark Zaccheo – Olive Street Development, LLC., Rich Ruth, John Reynolds, Mary Averill, Richard Dingman, Richard Colton, Tom Carroll, Diana Allen and Marie Bartlett.

The Planner presented the board’s rationale for a zone change:

- State statute MGL 40A, S. 3 states that “...No zoning ordinance or by-law shall regulate or restrict the interior area of a single family residential building...” While not all dwelling units are single family units, the bylaws as they read apply this restriction to single family dwelling units.
- The minimum square foot bylaw was part of the initial zoning bylaws adopted by the Town of Montague in 1970. Looking back 42 years, we can infer that the purpose of the minimum dwelling unit bylaw was to prevent overcrowding which has legitimate public health and community welfare implications. But a minimum square footage for dwelling units walks a fine line between the public welfare and deterring community goals of sustainable infill development, adaptive reuse of historic structures, and inclusivity for all demographics.
- There are several compelling demographic reasons for demand for smaller dwelling units. Since 1972 the average household size in Montague has decreased Family composition has changed. There are fewer children per family, more single parent households. In general the population is aging and looking for option to downsize. The population of Montague has increased by only 22 people since 1970.
- In response to these demographic trends, the Town adopted an accessory apartment bylaw in 1996 which is required to be less than 700 square feet contrary to section 5.4.7. The accessory apartment bylaw has been implemented successfully, promoting infill development, multi-generational living, and allowing residents to increase the value and use of their property. There are multiple cases of the Zoning Board granting variance to accessory apartments less than 700 square feet.
- Since 2006 there have only been 6 variances sought from the Zoning Board of Appeals. These variances include: granted (2), withdrawn (2) denied (2). The Zoning Board of Appeals has been treating these as a Special Permit rather than a variance thus granting dwelling units less than 700 square feet.
- In terms of the health and building codes: The state sanitary (health) code requires a minimum of 350 square feet for a dwelling unit for three occupants that is half the Montague zoning minimum. The State Building code requires less area than the current health codes.
- There is no evidence within local communities that have a minimum square foot bylaw. These include: Shutesbury, Amherst, Greenfield and Ludlow. The standard is to regulate lot size than dwelling size.
- Section 5.4.7 is at least partially redundant in the zoning bylaw. A multi-family use requires a special permit so if there is compelling public interests in the density of such units it can be remedied through the Special Permit Process. Two family dwelling units are by-right only in Neighborhood Business and Central Business where infill development is desirable. They are by special permit in all other districts.

Public Comments:

- Franklin County Regional Housing & Development Authority/Robin Sherman provided a letter in favor of zone change and high quality housing not based on unit square footage.
- Sam Lovejoy – wishes to see specific text of what text is going to be removed and to consider alternatives.
- David Jensen –The striking of the text is one option the Planning Board has and another one is reducing apartment size and /or makes it by special permit. Walter R. proposal is to strike the requirement due to it being treated as a special permit rather than the intention to treat it as a variance. The by-law proposal is to reduce the by-law to 500 square feet or leave it at 700 and make it a special permit through the ZBA. The Board wants to hear public comment and decide based on that.
- Bruce Young – it is an extra step to a special permit. It would help the process to fill the demand for housing.

- Diana Allen – Wanted to know what the square footage of the meeting room is – 600 square feet.
- Lee Wicks – how did the Moltenbrey get permitted? It was grandfather in. Lee wants to know with the density of the Moltenbrey are there any records of crime or increase issues? David Jensen added that this is a half-way house for those that are recovering from alcohol and drug addictions.
- Roy Rosenblatt – how does a change in the bylaw effect existing bylaws. The RFP was not put out regarding the allowing of smaller units and there might have been other developers that were interested. Walter Ramsey has been in conversation with counsel and they said that it would not change permits that have already been issued.
- Elliot Tarry – Also has issues with the terms infill and the effect of density that Lee Wicks brought up. When psychologists do studies on what is “livable” space you can understand why this bylaw was put in place. It was put in place to prevent slums and some concentration of the population. The planning for infill has been successful for accessory apartments in Montague Center so to double the population with the MCS. What is downsizing
- Mary April – restated that there has been an increase of 22 people since 1970-2010. So how does that increase in 30 years make a market pressure in Montague Center for more housing?
- Bruce Hunter did market research on infill for Northampton in this same situation and their population decreased by about 22 people in the past 30 years as well, but they had an increase in homes as a result of decreased family size. The population in this area and time frame more than doubled.
- Walter Ramsey - 1985-1999 Franklin County population increased by 11% but developable land grew by 30%.
- David Jensen – family size is smaller and people living alone have accelerated in the last 20 years. The age population range of: 20-40 are seeking single living units more than ever.
- The bylaw has been under the radar for years and has not been working for the Montague Center.
- Marie Barton – what are the pressures that “we” are responding to = smaller units for single living. Each village has its own character and feels that the demographics and traffic patterns will change and if there is an apartment complex.
- Walter R noted that 73 4th Street in 2009 had a variance that allowed a conversion of office space into 2 apartments to bring the count to 6 apartments in the building.
- Sam Lovejoy - Some points that are being brought to light are 1) Are we thinking of changing the zoning map in parts of Montague (Millers Falls, Turners Falls..) where the character is more concentrated housing and might be more desirable location to have these smaller living units 2) Is the 500, 700 square feet of living space an arbitrary number? 3) If you are thinking of getting rid of the variance and making it a special permit process than I think the criteria could and should be tightened up. Sam Lovejoy referred to the Gill zoning special permit criteria as being stricter and where and how is it going to be implemented.
- Bruce Young – addressed Sam Lovejoy’s points and let him know that the Planning Board came up with some of the same conclusions and that is what led to a Public Hearing so that they could hear what the residents think and keep an open mind in the entire process. The companies and people that did not give Montague a chance due to the variances in the past and into the future. There are other ways to regulate for example: Hadley, MA demands that developers donate land for every acre they develop in town. The variance is holding up progress in the town.
- David Jensen – addressed the map was considered Montague Center is zoned residential use one and two family with the exception of the store. It has been considered and does not

allow for a “New England” village center. The town voted to allow the commercial and multi-family use at the MCS property.

- Diana Allen – It is an opportunity to look at each of the villages and how to zone them. The idea of an apartment building and doubling the population of Montague Center might not be the best where as if it was in Turners Falls where the population is denser might be better. The RFP should be re-opened so that we have choice.
- Elliot Tarry – The community and the abutters had no objections to 10 condos and where it is owner occupied vs. 22 apartments and renters. Can’t compare each town with others you have to compare the quality of life by a study.
- Lee Wicks brought up the fact that Vermont has done a great job overall in the state preserving their landscape and promoting tourism while New Hampshire has built up their landscape with malls and go-cart venues leaving the natural beauty behind.
- Bruce Young – There are many single homes going up on Old Sunderland Road, Gunn Road has 9 lots so you are spreading the density over the landscape rather than utilizing a building that exists to house individuals.
- Fred Bowman – If laws are so restricted you will not have any new development that includes businesses and housing.
- Richard Dingman – What was the basis of the 2 variances that were rejected: 2006 132 L Street wanted to increase a multi-family unit from 8 units to 16 units with square footage of less than 500 feet, it was denied due to the neighborhood consisting of 1-4 units and parking congestion especially in winter. David Jensen added that the floor plans for the additional units were not conducive to the increase and the Zoning Board was split. The other variance was for 12 Franklin Street were they wanted to do an apartment with less than 700 square feet they ended up doing it at 700 square feet. Why did the issue of the Town being sued over was not addressed – Planning Board cannot make any comments.
- Olive Street Development LLC/Mark Zaccheo - When you allow smaller units you do allow housing for a certain demographic of the population; on the same hand you allow quality higher-end units as money can be spent to attain quality housing at affordable prices for those individuals that want it. The apartment size reflects the growing population trend with young professionals as well as the elderly population to have housing. Mark believes apartment size should be lower to 500 square feet from the 700 square feet. In his twelve years he has found the trend and need for the one bedroom spaces at a smaller square footage.
- Planner indicated that the timing of the process would allow for a vote at Annual Town meeting if the Planning Board chooses.
- Sam Lovejoy – We need to look at the impact of what the entire MCS project has on the community including, the units, paving the “entire” school, solar panels. The board needs to take more time on the matter and to allow for written comments. Members of the board concurred. He feels that a change is needed to the special permit criteria to tighten it up.

Rezoning Options:

- Strike Section 5.4.7 Min Floor Area. **Recommended alternative by Planner**
- Amend text of Section 5.4.7 to allow less than 700 square feet size by Special permit. **Possible alternative. Requiring a second special permit (in many cases) is redundant.**
- Amend text of Section 5.4.7 to specify that min floor area does not apply to single family residential. **Not recommended because it prohibits dwelling units less than 700 square feet deters infill development and adaptive reuse of historic structures. Excludes certain demographics.**

- No Action- **Not advisable because the bylaw is partially illegal as worded in addition to the above reasons.**

Motion made by Fred Bowman to continue the public hearing on Zone Change 2013-02 Bylaws Section 5.4.7 (Minimum Square Footage for Dwelling Units) to 6:30 PM on Tuesday, March 12, 2013 Seconded by, George Cooke.

The Planning Board welcomes written comments until March 7, 2013.

Town Planner Report:

- Turners Falls Livability Update

The recent public workshop was well attended by 44 individuals. There have been other focus/outreach groups in town including working on downtown planning with the High School and ESL (English as a second language) individuals Spanish speakers. The feedback has been very useful and we are in the process of formulating recommendations that will be available for review and comments in the next couple of weeks. The regional plan is ongoing as well and there will be some public workshops focusing on this aspect which is part of the HUD funding that is helping develop downtown master plans.

- Strathmore Mill RFP – Turners Falls, MA

There have been two proposals received by the Town for Strathmore Mill. Staff is vetting the proposals. Decisions should be made in early March.

- 28-34 East Main Street – Millers Falls, MA

There has been one group that has submitted proposals for two of the three buildings that are available. The first proposal includes a 1st floor barbershop with 2nd floor apartments. The second proposal includes a 1st floor Laundromat with 2nd floor apartments.

Next meeting: SPECIAL MEETING 6:30 PM on March 12, 2013

Motion by Ron Sicard to adjourn the Planning Board meeting at 8:32 PM. Seconded by, George Cooke.

Meeting adjourned at 8:32 PM on a motion by George Cooke. Seconded by, Bob Obear. All approved.

Approved by: _____ Date: _____