

**BRUNSWICK ZONING ORDINANCE REWRITE COMMITTEE WORK SESSION
MEETING**

DECEMBER 17, 2014

MEMBERS PRESENT ZONING ORDINANCE REWRITE COMMITTEE: Charlie Frizzle, Chair; Margaret Wilson, Vice Chair; Richard Visser, Anna Breinich, Director of Planning and Development; Jeff Hutchinson, Codes Enforcement Officer; and Jeremy Doxsee, Town Planner

CONSULTANT PRESENT: Don Elliott via ZOOM

Chair Frizzle opened the meeting, which is being held to continue the review of general comments and questions submitted for the draft zoning ordinance.

Chair Frizzle opened the meeting to general comments from the public; seeing none, he closed the general comment section of the meeting.

Review and acceptance of meeting summaries from 12/03/14 and 12/09/2014:

Mr. Frizzle noticed a few minor typos that do not change the substantive matter of the minutes from 12/03/14. Ms. Wilson would like a change on page 5, in her comments about number of bike spaces. Ms. Wilson requested a change on page 2 in the 12/09/14 minutes. These items will be corrected.

Margaret Wilson moved, Richard Visser seconded, approval of the December 3, 2014, meeting summary. The motion was approved unanimously by those present.

Margaret Wilson moved, Jeff Hutchinson seconded, approval of the December 9, 2014, meeting summary. The motion was approved unanimously by those present.

ZORC work session meeting schedule:

January 8, 2014, Work Session, Town Hall, Room 206, 1:00 pm – 4:00 pm

January 15, 2014, Work Session, Town Hall, Room 206, 1:00 pm – 4:00 pm

January 22, 2014, Work Session, Town Hall, Council Chambers, 5:30 pm – 8:30 pm

January 29, 2014, Work Session, Town Hall, Room 206, 3:00 pm – 6:00 pm

Continue review of public draft general comments:

- **1.7.2. – Outdoor Storage** – Recommendations at last meeting include keeping the first sentence of the existing “outdoor storage” definition and delete the remaining sentences, and prohibit outdoor storage, including watercraft, within the setback in all GR Districts. Mr. Frizzle stated that in the districts they are going to impose this requirement, they are

including watercraft, which has never been included in the outdoor storage definition in the previous ordinance, or in discussions for the proposed draft ordinance. The restrictions occur in those parts of town in which the lots are the smallest, and where setbacks sometimes are very near the houses, so people who own boats would be prohibited from storing them on their property. Ms. Wilson disagrees because they are talking about extended storage, where seasonal storage was intended to be allowed. She agreed, however, that the definition could be clarified to include seasonal. Ms. Breinich said staff and the Committee could work through it to allow for seasonal storage of watercraft. The question was asked if seasonal storage limits included RV's, and Ms. Wilson replied in the affirmative. The Committee discussed this.

Richard Fisco, 2 Lincoln Street, asked the purpose of a setback, and Mr. Frizzle responded the Town has setbacks to define where people can put buildings on their property, and to protect the neighbor from building too close to the property line. Ms. Breinich asked Mr. Hutchinson if sheds were allowed in the setbacks, and he replied that sheds have a reduced side setback of 10 feet in the growth districts and 5 feet in the rural districts as a detached accessory structure. Ms. Breinich questioned whether it made sense to allow a permanent structure in the setback area, but not temporary storage of materials.

Allison Harris, Cumberland Street, asked if the Town really wants to prohibit storage of items like garbage cans in the setback areas, and Ms. Breinich replied that was why she was raising the issue of sheds.

Jane Millett, 10 Franklin Street, stated that she thought there were a lot of garages built after the homes, but before the zoning ordinance, that are already out of compliance, so if anything needs to be hidden, it would be in violation of the setbacks. Mr. Frizzle said it was his understanding when the Committee first started this that they were talking about motorized vehicles, which at that time excluded boats. He notices now that the definition is too restrictive and inclusive when it comes to outdoor storage. He understands that it could be abused should they try to loosen the definition, but he's not sure where to draw the line. Mr. Hutchinson stated that there is nothing in the current or proposed ordinance that prohibits anyone from storing anything but motor vehicles in the setbacks. Ms. Wilson said they are only defining it, not regulating it. Regulations are in other parts of the ordinance. Mr. Frizzle recommending limiting the discussion to what they wanted to prohibit.

Jane Millett, 10 Franklin Street, asked if this would include commercial, as she had talked about to him in the past, and Mr. Hutchinson replied he would not include a box to a tractor trailer as a motor vehicle.

Carol Liscovitz, 11 Berry Street, added that she thought the discussion last week tended to lots looking like junkyards, and how to empower Mr. Hutchinson to deal with that issue. Mr. Hutchinson replied that he deals with these through the Housing Code, not the zoning ordinance.

Jeremy Doxsee, Town Planner, joined the meeting.

Mr. Hutchinson suggested adding motorized watercraft to motor vehicle instead of exempting it, but the Committee would still need to deal with seasonal storage. Mr. Frizzle reminded members of what Mr. Hutchinson stated several weeks ago: that there had never been anything prohibiting storage of watercraft in the ordinance and he has never had a problem. He doesn't understand why the Committee is working to prohibit

them. Ms. Breinich stated she is fine leaving the language the way it is, but Ms. Wilson asks if they then prohibit the parking of motor vehicles. Mr. Hutchinson believes there is interest in the town in prohibiting motorized watercraft in the side and rear setbacks.

Jane Millett, 10 Franklin Street, said she didn't believe allowing motorized watercraft would be desirable.

Mr. Hutchinson will work on some language to possibly include motorized watercraft within the definition of motor vehicle, however, allow the seasonal storage of the watercraft in the side and rear setbacks, but not the front. The Committee agreed to try that and bring the item back, with suggestions from audience members to make seasonal an adequate amount of time.

- **2.4.9.A., 2.4.9.A.2., 2.4.9.B.1.a.i. (D), Appendix C** – these have been referred to the Village Review Board. Ms. Breinich informed the Committee that the VRB did meet the week previously to discuss these comments. They are under further discussion, so Ms. Breinich is not able to report on results yet.
- **3.2 Use Table – Artisan** - The Committee responded to this on 12/9 and agrees to keep size and employee limitations in definition, and studio-based retail sales shall be allowed in districts permitting retail use by right or by conditional use permit.
- **3.2. Use Table – Residence Hall** – related to an earlier comment and is up for discussion at the meeting on 1/8/2015.
- **3.4. – Supplementary Use Standards** – the request was made to keep all neighborhood protections contained in existing section 204.3 (CU districts). Staff recommends reviewing all of Section 204.3, which includes several notes that apply to the CU districts that are in present neighborhood context, and include those that are still applicable in proposed Section 3.4 as supplementary use standards. Ms. Breinich stated that one of the issues they are going to have as they move forward is the multitude of notes that are tied to specific areas that were existing zoning districts, and in order to keep the agreements, especially when it comes to the CU districts, what she is recommending is that a map is made that shows the geography as it is currently and include it as an appendix, to be referred to as necessary. Ms. Breinich stated if the Committee agreed with further review based on the information she has just received from Bowdoin on existing setbacks, and if they agree on the inclusion of a map as recommendations, then the Committee can discuss this at the next meeting. The Committee was in agreement with this process.
- **4.1.2. – Dimensional Standards** – Does not need action this week.
- **Table 4.1.2. – Dimensional Standards – Assisted/Congregate Living Facility** – staff recommended a review of uses in the context of footprint limitations to determine ability to actually site uses in the district. ZORC agreed with this.
- **Table 4.1.3.** – the recommendation by staff was to leave the requirement the same as it was in the CP1 lot area, as the Coastal Protection Zone Committee had studied this and had a series of meetings concerning the maximum impervious area. ZORC had agreed that this was a needed revision.
- **4.1.4.A. – Calculation of Net Site Area** – Mr. Frizzle explained that the Town does have maps showing deer wintering areas, but according to the IF&W none of these deer wintering areas are what they classify as “*high or moderate*”. Ms. Breinich is just asking to qualify the area as “*high or moderate value*”, in case there is any change in the future. Mr. Frizzle believes if the Town ever has a “*high or moderate*” deer wintering area defined by the State, then it can be added. Ms. Wilson suggested saying “*contains any of*

the following as defined by the IF&W Department”, but it could also be taken out. Mr. Hutchinson said it was confusing for developers, and would like it taken out. The Committee discussed this and some other possibly unneeded language, and decided to take out the deer wintering area language.

Don Elliott, Clarion consultant, joined the meeting.

Charlie Wiercinski, 2 Chebeague Lane, had a question about section 4.1.4.A.4. and calculating the site area, and Ms. Breinich and Ms. Wilson stated that was carried over from the existing ordinance. Ms. Breinich will add his comment to the matrix, and they will attempt to clarify this and bring it back at next meeting.

- **4.2.7. – Historic Resources** – Mr. Frizzle agrees with staff that an overlay does not need to be created. Ms. Breinich believes they need to include archeological resources in the definition of “*historic resource*”, and include other areas throughout Brunswick with the potential for archeological resources, not just Brunswick Landing. Ms. Breinich asked Mr. Elliott to take a look at this for section 4.2.7 – Development Review. Mr. Elliott clarified what Ms. Breinich needed, and said he would do this.

Catherine Ferdinand, Bowdoin College, commented specifically on the Brunswick Landing property, as they have received four deeds. She did get one deed that identified an archeological site, and the Navy attaches covenants and a map to the deed that was not available to them prior to receiving the deed. She said they were already mandated by the deed covenant to talk to the Maine State Historic Preservation Officer, and when they apply for a permit, they have to provide the Town with their deed so, in terms of concerns about property that’s transferred by the Navy, there are specific covenants attached to the deed that identify resources. Mr. Frizzle would like copies of Bowdoin’s deed covenants, because as Brunswick Landing development comes before the board, they will need to see what covenants apply and make sure that the applicant is aware of those covenants and is willing to abide by them. Ms. Breinich would like to identify sensitive areas without mapping them to discourage people from attempting to remove artifacts. Mr. Doxsee is attempting to reach Art Spiess, the archeological specialist at the Maine Historic Preservation Commission, for his input. Ms. Breinich said staff will get some basic suggestions and language from Clarion about archeological resources, and Mr. Doxsee will follow up at the State level per mapping and for additional examples.

- **Table 4.1.4.C.5. – Side setbacks on narrow lots.** Staff’s recommendation is to reduce side setback to 10 ft. for all open space development in growth areas. Mr. Frizzle would like to remove open space development and just allow the reduced side setbacks for smaller lots, but Ms. Breinich stated that the comment was related to the table of Dimensional Standards for Open Space Development in Growth Area Districts, and that was the reason open space was included. Ms. Breinich checked, and the Planning Board is allowed the flexibility to reduce those standards. Ms. Wilson feels that 15 ft. is unreasonable and 10 ft. should be used. They will need language in the ordinance allowing the Planning Board to waive reduced setbacks. Mr. Elliott added that this came up because in the drafting process they got a comment that said it’s wrong for the setbacks in the rural areas in these developments to be the same as in the growth areas. It ought to be more rural. The 15 ft. came from Clarion in trying to respond to that comment. He is fine with putting it back at 10 ft. and fine with the waiver language as discussed, but would like to point out that he doesn’t think it’s crazy as written. If you choose to lay out your development with a 60-foot lot frontage, you must be pretty

comfortable that you can build a 30-foot wide house on that lot, and there's nothing that says you must lay out your lots with a 60-foot frontage. That's your choice. That being said, he is fine going with the 10-ft setbacks and the waiver language for the Planning Board. Ms. Wilson is looking at the table on the next page, which is 4.1.4.C.6. – open space development in the rural areas. The second two columns are identical, and it seems like they should be one. Ms. Breinich agrees, and they will be unified.

- **4.5.2.B.1. – Street Trees** – Mr. Frizzle has reviewed comments from Peter Baecher, Town Arborist, and he would recommend they keep his parenthetical recommendations in the ordinance. ZORC is in agreement with this recommendation. Ms. Breinich stated Mr. Baecher did caution that he did not write these as actual standards, so the Committee can write these and put them into actual standards. Mr. Elliott said if it is clear from Mr. Baecher's letter what he needs to do, he will do it. He is unsure about having recommended guidelines, and who is going to decide the outcome if it is not a Development Review project. Ms. Breinich suggested having a range for street trees and take out the word recommended. Mr. Elliott would prefer that solution. Ms. Breinich will rework this and put it into regulatory form, and bring it back to the Committee. Mr. Hutchinson explained his concerns with this section, and he discussed it with the Committee. Mr. Elliott suggested exempting rural residential lots from the street trees or lowering the standard so it's less of a burden for rural residential lots. In answer to Mr. Hutchinson's question, Mr. Elliott explained that requiring the landscaping is the norm with the ordinances he's dealt with. The norm is to say "here are our standards for landscaping. They apply to you, unless you are exempt from them", and it's not done on an only if we have a discretionary review of your property basis. Ms. Wilson discussed an open area like Pennellville Road, and she's not sure street trees are desired there. Ms. Breinich agrees with Ms. Wilson's comments, so perhaps Mr. Elliott could draft language with exemptions or possibly a sliding scale for smaller intown lots. Mr. Elliott said he would work with Ms. Breinich to create something that would work.

Charlie Wiercinski, 2 Chebeague Lane, commented that he doesn't think street trees would be present on other lots, if a vacant lot being developed in the same area required them. Mr. Hutchinson feels that this type of landscaping should be limited to Development Review. The Committee discussed the ordinance, its specifics, and its impact.

Carol Liscovitz, 11 Berry Street, asked if the requirement of the homeowner to plant street trees also included the public right-of-way, and Mr. Hutchinson replied it could, but it would need to be approved by the Town Arborist, and Mr. Frizzle added that quite often right-of-ways do not extend much more than the pavement. She believes that is inconsistent, and the responsibility seems to rest with the homeowner when the trees are not even on his property.

Ms. Breinich will ask Mr. Baecher about responsibility for the maintenance of the right-of-way trees.

Streetscape and sliding scale were discussed. The majority of the Committee agreed to have street trees applicable in the growth area, whether or not the project goes through Developmental Review. Ms. Breinich believes this is a good compromise.

- **4.7.1.B.2.** – This is a to-do item and will not be discussed today.
- **4.7.2.B.** – Mr. Doxsee is taking a look at other municipalities to see how they are handling bicycle parking, and should have something by the January 8, 2015, meeting.

- **4.7.4.B.1.** – This is a to-do item and will not be discussed today.
- **4.9.2.B.** - This item was discussed by the Village Review Board and a language change was made to assure both façade designs for a corner lot enhanced the streetscape. Ms. Breinich will add the VRB’s comments and present this at the January 8, 2015, ZORC meeting.
- **4.10.1., 4.10.2.C. – Neighborhood Protection Standards.** Ms. Breinich is planning to put this on the January 8, 2015, meeting agenda.
- **4.11.3.E.1., 4.11.4.H. – Signs** – Mr. Hutchinson has been working on this section.
- **4.12.1.A.1., 4.12.2., 4.12.4., 4.12.5.** – ZORC agreed with the staff recommendations.
- **4.14.2.A-B** – ZORC agreed with clarifying the language and the addition of a word, and the Committee confirms that today.
- **5.1.1.** – ZORC agreed with staff recommendations on 12/3/14, and confirms that today.
- **5.1.1.A.2.** - ZORC agreed with staff recommendations on 12/3/14, and confirms that today.
- **5.1.4.** - ZORC agreed with staff recommendations on 12/3/14, and confirms that today.
- **5.1.9.D.** - ZORC agreed with staff recommendations on 12/3/14, and confirms that today.
- **5.2.6.B.6.c.iii** - ZORC agreed with staff recommendations on 12/3/14, and confirms that today.
- **5.2.6.C.** – This item was discussed at VRB’s December 16, 2014, meeting and is still under review.
- **5.2.6.C.2.b. viii. and xii.** – This item is being reviewed by the Village Review Board.
- **5.2.6.C.4.a. and b.** - This item is being reviewed by the Village Review Board. Ms. Breinich mentioned that VRB will be scheduling another workshop session to discuss the above items in the proposed draft and offer their comments and suggestions.
- **Table 5.2.7.B.** – This item will be further reviewed by ZORC at a later date.
- **5.3.2.B.** - ZORC agreed with staff recommendations on 12/3/14, and confirms that today. Mr. Frizzle asked if someone disagreed with Mr. Hutchinson’s ruling, wouldn’t that then be a legal matter, and Mr. Hutchinson reviewed and explained the process for complaints and permits. The denied complaint would then go to Ms. Breinich as the Planning and Development Director, then continue to the Town Manager, then possibly the Personnel Board, therefore it is called a personnel matter. A denied permit would go to the Board of Appeals. Mr. Elliott added the caveat that if Mr. Hutchinson’s refusal to do something violated a federal constitutional right, the Town could be sued for failing to act.

Ms. Breinich stated that she has approximately nine more comments from individuals. Her goal is to get through them at the next meeting, so the Committee can continue discussing the policy issues. This does not include the mapping issues, which they will work on after they give everything else to Mr. Elliott. There is a question over the need for another overlay on Brunswick Landing, which they will consider at the next meeting. In response to Mr. Visser’s question about other groups’ comments, Ms. Breinich said she has spoken to Tom Farrell on the status of impact fees, and Mr. Farrell will check with his consultant to see where he is in the process. She has spoken to the Conservation Commission and the VRB, who will be scheduling a separate workshop session to review and comment on the proposed ordinance sections which pertain to the VRB. There will also be another set of meetings after the next draft.

Other business:

Happy Holidays from ZORC!

Mr. Frizzle adjourned the meeting.

Attest

Debra Blum
Recording Secretary