

TOWN OF BETHLEHEM
Planning Board Public Hearing
December 13, 2023
Minutes

Present: Anthony Rodrigues, Linda Moore, Martie Cook, Alecia Loveless, Sean Gawlick and Jerry Blanchard

Absent: Mike Bruno (excused) and Kevin Roy (excused)

Anthony Rodrigues opened the meeting with the Pledge of Allegiance at 6:00 pm and appointed Jerry Blanchard as a full voting member.

Anthony then opened the public hearing for the Proposed Zoning Amendments and gave members of the public some ground rules for tonight's hearing before handing the public hearing over to North Country Council's Planning Director Kaela Tavaras to present.

Kaela gives a brief overview of each of the amendments before explaining she will put up the full text on the screen for each amendment and talk about each one with a little more detail and then take questions or comments.

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Amendment 1

Reducing the parking spaces needed for an ADU less than 1000 sq ft. To do that we need to make changes to article 2 of the zoning ordinances which has parking requirements to all different land uses in town. The new language for a single-family home with an ADU would read, *A single-family dwelling with an accessory dwelling unit (ADU) that has no more than 1,000 sq ft of gross floor area and no more than two bedrooms may provide one additional off-street parking space instead of two additional spaces for the ADU.*

The definition of Gross Floor Area is also added to the ordinance.

Questions:

Linda Moore wants clarification on the words *has no more than two-bedroom **MAY** provide one additional off-street parking space*; That implies they are not required to? The way Kaela has it worded lets them provide less, but also the word may is in there to allow them to provide two if they wanted.

Amendment 2

Related to the accessory units, but it going to make it allowable to have the ADU's detached. There is a size limitation to lend to visual control and to make sure the accessory unit remains accessory to the main house.

To make it happen there needs to be some language clean up in the ordinance.

Article II. General Provisions, section B will now state (**changes in bold**):

Except as provided **elsewhere** in **this Ordinance**, there shall be no more than one single-family dwelling, single-family dwelling with **one** accessory dwelling unit, two-family dwelling, or other principal use or principal building per lot.

Kaela explains the first change (elsewhere in the Ordinance) makes it so that if things change in the future, the town won't have to circle back to change this ordinance.

The heart of the changes is to pull out the word **Attached** so that on any property that there shall be **no more than one** single-family dwelling, single-family dwelling with **one** accessory dwelling unit, two-family dwelling, or other principal use or principal building per lot.

The piece that is meaningful is switching the word **attached** to **one**.

The final piece is adding two definitions to the ordinance:

Accessory Dwelling Unit, Detached: *A dwelling unit in a detached accessory structure such as guest cottage, barn or garage, on the same lot with a single-family dwelling, that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation, containing no more than two bedrooms and no more than 1,000 sq. ft. of gross floor area.*

Gross Floor Area: *The sum of the horizontal area of all floors of a building, measured from the exterior faces of the walls but not including unfinished cellars, attics, porches, etc.*

There are no questions or comments from the Board or the public.

Amendment 3

Would make it easier to convert existing buildings to multi-family dwellings, and would allow the building coverage for multi-family dwellings in District 1 Main Street and District 1 to be 25% like all other land uses.

Specifically, this amendment would add a new definition for Residential Conversion and add "Residential Conversion" in use tables as new row following multi-family dwellings, to be a new Permitted Use in District I Main Street and District 1 and allowed by Special Exception in District II, District III and District IV.

Residential Conversion: *The conversion of an existing residential structure or structure previously used for nonresidential purposes, to multi-family, or addition of dwelling units within an existing structure that is, or with this change, will become multifamily.*

There are would also be two changes to the General Requirements that state in Districts II, III and IV the total building coverage shall not exceed 10% of the lot area; and existing structures may be converted to multi-family, or have additional dwelling units added, if off-street parking can be provided as required.

Amendment 4

This amendment would increase housing opportunities by allowing dwelling units above first-floor businesses.

Specifically, a new definition for Mixed Use would be added to the ordinances.

Mixed Use: *A structure with nonresidential uses on the first (street level) floor and dwelling units or a mix of dwelling units and nonresidential uses above the first floor.*

Then “Mixed Use” would be added in the use tables as a new row, to be a new Permitted Use in District I Main Street and District 1 and allowed by Special Exception in District II, District III and District IV. This helps promote the idea of downtown development, and sometimes allowing it in other areas, but not necessarily every time. This opens an easy path for downtown housing opportunities.

This change is now carried over to Article II. General Provisions in case the other amendments fail.

Amendment 5

Would add Cluster Development as a Permitted Use everywhere except District I Main Street and the Landfill District, provide additional guidance for the Planning Board when reviewing proposed Cluster Developments, and provide a density bonus to encourage development with homes no larger than 1,200 sq. ft. with a two-car garage.

This ordinance is an innovative land use control to provide some flexibility in overall subdivision design, lot layout, and shape for single and two- family dwelling units on a single lot, or on lots of reduced dimensions.

The proposed developments would have to adhere to the following purposes:

1. To promote the conservation of the natural and scenic environment, and the development of community uses in harmony with the natural features of the land.
2. To establish living areas within Bethlehem that provide for a balance of community needs, such as a diversity of housing opportunities, adequate recreation, and open space areas, easy accessibility to these and other community facilities, and pedestrian and vehicular safety.
3. To provide for the efficient use of land, streets, and utility systems.
4. To stimulate imaginative and economical approaches to land use and community development.

The maximum number of single- family lots and/or, two-family lots, or single- family and/or two-family dwelling units, permitted in any cluster development shall be determined by dividing the net tract area of the parcel by the minimum lot size for the particular zoning district. The net tract area of a parcel of land shall be defined as the total area of the parcel less all non-buildable land, including all area within the mapped flood hazard areas, wetlands, and all area with a slope of 25 percent or greater. The net tract area concept may be waived by the Planning Board when a parcel is to be serviced by both

Bethlehem Village District water and sewer, in which case, the number of units shall be based on the gross land area.

There would also be some permanent covenants for cluster subdivisions that would restrict homes to no more than 1,200 square feet of gross floor area with a two-car garage (no more than 480 sq. ft.). The density may at the applicant's discretion be increased to 150% of that which would normally be allowed in the district provided that the applicant demonstrates the provision of water supply and wastewater treatment in accord with NHDES requirements. The net tract area shall not be reduced by the acreage of floodplains, wetlands or steep areas when calculating the allowed number of dwellings for this category of cluster subdivision.

The Planning Board would evaluate the natural features of the land, the suitability of proposed lots or dwelling units, and overall layout requirements of the development, and may approve reduced interior setbacks and reduced frontage requirements on interior roads.

The setbacks from existing roads and from abutting properties not part of the application shall not be reduced. The Planning Board may require increased setbacks and/or vegetative screening from existing roads and/or abutting properties.

Long, narrow lots or lots with very irregular shapes shall not generally be accepted by the Board, specially if, in the opinion of the Board, these lots will create unusable or inaccessible areas of land.

Dwellings shall be separated by a minimum of 20 feet, measured at the nearest point of any architectural features such as eave, deck, or bulkhead.

The arrangement and design of a cluster housing subdivision should include elements that facilitate neighborhood character, such as arrangement of homes facing each other around a common area, front porch sitting areas, garages to the side or rear and/or shared parking areas, and a combination of private and shared outdoor activity areas.

Where applicable, open space areas should be located and designed so as to protect important resource areas such as agricultural land, wetlands, shorelands or other important habitat. At least 50% of the total property shall be left in the form of open space. At least 20% of the property shall be comprised of open space that is realistically and conveniently usable for recreational purposes by the future residents. All permanent open and recreational space areas shall be protected by legal arrangements, satisfactory to the Planning Board, sufficient to ensure its maintenance and preservation for the designated purpose. Open space land cannot be further subdivided.

The common open space area shall not be developed except for features that enhance or facilitate its use for nonmotorized outdoor recreation. Examples may include, but are not limited to, picnic areas, gardens, or playing fields. Common open space may include amenities such as seating, landscaping, trails, gazebos, outdoor cooking facilities, covered shelters, playground equipment, or the like. The Planning Board may allow at its discretion a portion of the open space area to be utilized for water supply, wastewater treatment, and/or stormwater treatment purposes compatible with other open space purposes.

Parking may be in a combination of individual spaces/garages and shared parking areas.

The developer (original or subsequent) or the homeowners association of any cluster development shall have the responsibility to develop, repair, and maintain all roads and streets, stormwater facilities and any shared water and/or wastewater facilities.

A proposed condominium project must comply with all other required local, state and federal regulations, including the Subdivision Regulations of the Town, and RSA 3567-B, the Condominium Act.

Any accessory dwelling unit (ADU) associated with a single-family home in a cluster development shall require a Special Exception and must be an attached ADU and shall be limited to 750 sq.ft. gross floor area.

Dwelling units in Cluster Development may not be used as Short-Term Rentals.

In Districts I, II, III and IV, a note will be inserted into use tables underneath Single-Family Dwelling language regarding accessory dwelling units to read "See Article XII for restrictions on accessory dwelling units in Cluster Developments."

The definition for Gross Floor Area would also be included.

Chris Jensen of Lewis Hill Rd asks if the Planning Board would be responsible for defining neighborhood character, and if not, who is responsible for that?

Anthony believes that this is one of the philosophies behind the amendment. He knows it's a lot of responsibility but feels the board is up to it. We are aiming for a true neighborhood that offers multi-generational families.

Amendment 6

Would define renting one or two rooms in an owner-occupied home to be an accessory use not requiring any special permission, make Bed and Breakfast a Home Business, and add Short-Term Rentals as a Permitted Use in single-family homes or in one unit only in an owner-occupied two-family dwelling or owner-occupied single-family dwelling with accessory dwelling unit. It would also add a new Article with basic health and safety requirements for Short Term Rentals and would provide a definition for all other Public Accommodations which would now include Campground.

In use tables, "Motels, hotels, guest homes, and overnight cabins" would be replaced with "Public Accommodations" throughout, and "Short-Term Rental" would be added as a new Permitted Use in District I Main Street, District I, District II, District III and District IV, with footnote in each table reading "Short-Term Rentals are not permitted in Cluster Developments."

The following definitions would be added/updated:

Accessory Building or Use: A building or use located on the same lot as the principal building and the use of which is considered customarily incidental and subordinate to those of the principal building, such as detached garages, swimming pools and equipment sheds. Also includes offering one or two guest rooms in an owner-occupied dwelling, in which the owner or another member of the owner's household is present overnight during the period of rental, for compensation by up to three lodgers.

Bed and breakfast: An owner-occupied single-family dwelling, where the owner or a live-in manager is present overnight during the period of rental, where three to five guest rooms, all within the principal building, are offered for transient use for overnight accommodation for compensation. May offer breakfast only exclusively for guests.

Campground: A parcel of land on which 2 or more campsites are occupied or are intended for temporary occupancy for recreational dwelling purposes only, and not for permanent year-round residency, in compliance with RSA 216-I.

Home Business: An accessory use of a dwelling or accessory structure on a residential lot that involves the on-site manufacture of goods, provision of services, or outdoor storage or activity, which use is clearly incidental and secondary to the use of the dwelling as a residence and shall not change the residential character thereof, with any retail sales only incidental and occasional, operated by a resident of the same premises. Includes Bed and Breakfast and owner-occupied Short-Term Rental.

Owner-occupied: Describes the principal residence or seasonal dwelling of a person or persons that holds title to the property, where at least one such person is physically present within the dwelling unit on said property for at least three months each calendar year.

Public Accommodations: A building or group of buildings in which more than one dwelling unit, or guest rooms (three or more rooms if in an owner-occupied dwelling where the owner or a live-in manager is present during the period of rental) are provided for lodging, or lodging and meals, for transient or seasonal guests for compensation; or a residential building with rooms (three or more rooms if in an owner-occupied dwelling where the owner or a live-in manager is present during the period of rental) that are provided to lodgers who may not be transient or seasonal. Public accommodations include, but are not limited to, motels, hotels, condotels, inns, lodges, bed and breakfasts, and boarding or rooming houses. Includes multiple cottages, camps or cabins operated under a single management entity and offered only for transient or seasonal use. Also includes campgrounds. May include customary lodging amenities and facilities such as restaurants and meeting rooms.

Short-Term Rental: A single-family dwelling, owner-occupied two-family dwelling, or owner occupied single family dwelling with accessory dwelling unit, where one unit only is offered for transient use for compensation. Refers only to dwelling units that would normally be considered residential living units not associated with Public Accommodations.

Transient: Describes a room, number of rooms, or dwelling unit that is offered for rent in increments of less than 30 days.

Article XVII Short-Term Rental (New Article XVII. and renumber if needed)

Each of the following would have to be documented to the satisfaction of the Building Inspector prior to the issuance of a Zoning Permit for a Short-Term Rental:

1. Access to the dwelling is provided by a Town or State-maintained road, or private road that has not been the subject of a waiver pursuant to RSA 674:41 and that has been approved by

the Planning Board.

2. The dwelling is served by one on-site parking space for each permitted bedroom plus one additional parking space.

3. The septic system is properly-functioning, with a NHDES permit on file for the number of bedrooms. For systems without a NHDES permit on file, an evaluation by a NH Certified Septic System Evaluator will be required, along with a current NHDES-approved design to be constructed in the event of system failure.

4. For dwellings not served by a public water supply, documentation must be provided prior to the issuance of a permit of a test for total coliform by a New Hampshire Environmental Laboratory Accreditation Program-accredited lab showing the absence of coliform bacteria.

5. The dwelling is in compliance with all applicable building, health and life safety codes.

Questions:

Chris Jensen asks who would issue the permit? The Board responded it would be the responsibility of the Building Inspector.

Chris would also like to know if the building inspector would have the authority to deny a permit. Anthony feels that yes, the building inspector would have the authority to deny a permit.

He also wonders if existing short-term rental will be grandfathered.

Kaela responded that the general understanding is gray and should be put to the town council for determination. One way around grandfathering would be to have the Select Board put an annual permit process in place.

Alex Foti, Planning Board Chair from Carroll commended the board on a great job. He asked how Bethlehem will enforce the restriction on STR in Cluster Developments. Martie Cook reiterated that the deed covenants would enforce the restrictions. Mr. Foti also stated he felt the parking requirement was stringent and seems counterintuitive. Kaela pointed out that STR tend to bring more cars and this requirement is a mitigation piece, so cars are not parked "willy nilly."

Bethlehem resident Julia Brabec of Cherry Valley Rd asks how homeowners know if they have a septic permit. Kaela stated if a homeowner cannot find a record of septic, then they could call NHDES to see if there is a permit on file. If your house was built before the permitting process was put in place than you have the option to have Septic Evaluator come take a look; however, for systems without a NHDES permit on file, an approved design to be constructed in the event of a system failure must be put in place to come into compliance.

Julia would also like to know who decides if the dwelling is compliant with all applicable building, health, and life safety codes. Kaela responded that the building inspector would in compliance with the State of NH's Residential Building Codes. Julia wonders if the building inspector has the capacity for all this additional work. Anthony commented, if adopted, this would be addressed by the Select Board.

Mary Moritz asks if this is a one-time inspection, and does it include already existing buildings that are becoming STR. The answer to both was yes.

Thomas Carter had a question about the STR definition. Would a situation with a 3 family unit be allowed or does that fall outside of the definition? Kaela confirms that new STR cannot come into multi-family properties.

Amendment 7

Would remove Article XVII Impact Fees in its entirety (has never been used), along with the Definitions in Article XXII that are only used in that section of the Zoning Ordinance. Article XVII would be titled “Reserved” and left blank for future use unless or until used by another amendment.

The following terms and their definitions would be removed from Article XXII:

Capital Improvement
Capital Improvement Program (CIP)
Impact Fee
New Development
Per Pupil School Capital Cost
School Age Children Multiplier

Anthony ends the public hearing at 7:25.

Martie Cook makes a motion that the proposed Zoning Amendments for March 2024 as presented at this meeting move forward for warrant consideration. Jerry Blanchard seconded, and the motion carried 6 – 0.

The next meeting date is set for January 10, 2024.

Alecia Loveless motioned to adjourn, Linda Moore seconded with all in favor to end the meeting at 7:30 pm.

Respectfully submitted,

Dawn Ferringo, Planning and Zoning Board Clerk