

**REGULAR MEETING
PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

6:00 PM

June 29, 2022

MINUTES

MEMBERS PRESENT: Rick Chellman, Chairman; Corey Clark, Vice Chair; Karen Conard, City Manager (present on Zoom); Joe Almeida, Facilities Manager; Beth Moreau, City Councilor; Greg Mahanna; Peter Harris; James Hewitt; Alternate; Andrew Samonas, Alternate

ALSO PRESENT: Beverly M. Zendt, Planning Director; Peter Britz, Environmental Planner; Stefanie Casella, Planner 1;

MEMBERS ABSENT: Jane Begala; Franco DiRienzo,

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I. CALL TO ORDER

Chairman Chellman called the meeting to order at 6:00 p.m.

II. CITY COUNCIL REFERRALS

- A. Continue the public hearing and consider a recommendation to the City Council for Zoning Ordinance Amendments to Building Height standards.
***Please note this item was postponed from the June 23, 2022 Planning Board meeting.**

SPEAKING TO THE PROPOSED AMENDMENTS

Ms. Zendt commented that on May 5, 2022, the Board received a draft for zoning amendments to building height requirements and structural code clean up. They have had a public hearing, and worked with Board Members, Staff, and Community Members on feedback. The fourth version was presented at the June 23, 2022, Planning Board Meeting. It was continued to tonight. The purpose is to provide clarity to certain ambiguity in the code around building height and design guidelines. The intent is to make it more understandable for the Board and community.

QUESTIONS FROM THE BOARD

Mr. Harris questioned who was setting the priorities for the changes coming to the Planning Board. City Council Representative Moreau commented that the City Council set this priority based on goals they set.

Chairman Chellman added that the Council gave a set of priorities to the Land Use Committee. The Planning Board can set priorities of its own volition as well. The process they are following tonight is a directive that came from Council. They started looking at this because of a difference in interpretation on building height. After looking at the ordinance they realized other things needed some clean up. This became a little bit bigger because they are doing their due diligence.

Mr. Mahanna commented that clean-up is good but some of these changes will benefit developers. City Council Representative Moreau noted that they can recommend all or parts of the proposal.

Mr. Hewitt questioned if there would be a presentation on this tonight. Chairman Chellman responded that Staff was present to answer questions, but they do not have time for a full presentation and public comment. Staff can provide a brief comment.

Mr. Cracknell commented that there were four major parts to the amendments. The first is making changes to the building height map. The second is dealing with corner and through lots. It addressed how to apportion multiple building heights. The third is related to civic properties. They are currently exempt from 60% of the dimensional controls, but there is ambiguity in the remaining code about whether or not they need relief or what standards apply. They either need to fill the gaps or treat them as exempt from all dimensional controls. The fourth and final is dealing with the definitions of building height and addressing artificial filling. There are also some changes that address decorative elements to a roof and modifying the definition of a penthouse.

Mr. Hewitt questioned what notifications about these proposed changes went out to the public. Ms. Zendt responded that if a change directly effects 100 abutters or less, then the City must do direct notification. If it is more than that, then it is considered more of a legislative change and direct notification is not required. Staff worked with the City Attorneys to determine what was required for notification. The notification was posted in the Planning Board agenda and in the newspaper.

Mr. Mahanna noted that they were proposing changes to building heights in the Historic District, but the HDC has authority on those building heights. Chairman Chellman clarified that they were setting a standard height and the HDC had the authority to dictate the height within that standard in the Historic District.

Mr. Almeida commented that the design of the building determines the success of it more than the height of the building.

Mr. Cracknell commented that the building height standards set on the map are as they are today. The changes to the map are only making it explicit to the applicant and public that HDC has authority to set the height between the minimum and the maximum. The HDC cannot create a new maximum and they cannot go below the minimum.

Mr. Mahanna commented that they should not be raising the heights of buildings. Foundry Place should not be that high. Mr. Cracknell responded that everything permitted around Foundry Place is 60 feet. Lot 1 is 60 feet tall, lot 2 is a park, lot 3 will be 50 feet. The corner is a 60-foot building. This was solidifying the height. That is why they used it. They are adding this because Foundry Place didn't exist when they adopted the building height map.

Chairman Chellman noted that at the last meeting they requested a visual of the overlay with an aerial photo and the 3-D model. Mr. Cracknell responded that they do have an aerial of the Foundry Place neighborhood. Some of the 3-D modeling is available online and was done by the applicants. The City did not produce them.

PUBLIC HEARING

Rick Becksted of 1395 Islington St. commented that there has not been adequate time or notification for this. The Planning Board should have a work session on this. The public hearing and notification were for the previous meeting. This is impacting prominent neighborhoods and people are on summer vacation. This should be handled in the fall. There is not enough information for the public or the Board.

Paige Trace of 27 Hancock St. spoke as the President of the National Society of Colonial Dames of NH. They own the Moffat Ladd house. Ms. Trace was concerned that the height limits were proposed to change on all four sides of that property, and they were not noticed. They are trying to protect the property, not sell it. The Planning Board should consider that there was no transparency on this. There would be more public comment if there was more notification. This seems like spot zoning.

Duncan MacCallum of 556 State St. commented that he was against the proposed zoning changes. They look like the zoning amendments were drafted by developers. The building heights should be lowered not raised. This could destroy the character of the downtown. Mr. MacCallum also thought it seemed like spot zoning. The HDC does have the authority to dictate the height but in practice they never do it. That should be taken under consideration.

Petra Huda of 280 South St. commented that the Planning Board should vote no on this tonight. This is a blatant attempt to circumvent variances and the BOA. It seems like spot zoning. Developers will benefit from the change of the height in the Hanover Garage and Foundry Place areas. The Planning Board has not had sufficient information. They should postpone it until they get more information.

FX Bruton represented Coventry Assets who own the building at 1 Congress St. Spot zoning typically relates to use changes like changing to an industrial zone in a residential zone. It does not speak to the changes tonight. The City Council has asked the Planning Board to look at the changes they've considered and give a recommendation. There is another process where the Planning Board can look at their own changes. That is not what is in front of them tonight. The proposed change is an attempt to make this parcel similar to the surrounding parcels. Mr. Cracknell mentioned this was an attempt to make it more consistent. The Planning Board should make a recommendation to Council as requested and respect the process.

Esther Kennedy of 41 Pickering Ave. commented that one developer just asked the Board to pass these changes and only talked about one property. This meeting was originally scheduled for 6:30 p.m. but it was changed to 6 p.m. It also did not say there would be a public comment. Residents don't want more mass and bigger buildings. The Board has to consider what they want Portsmouth to be. If they are looking at height, they should also look at parking. They should look at everything and the public should be more involved.

Elizabeth Bratter of 159 McDonough St. commented that there were many proposed changes, and it is overwhelming. It would be helpful for the public to have a presentation that explains the reasoning behind why the change are proposed and the wording around them. Some of the changes to the ordinance will protect neighborhoods better. Some of the changes came about because of public complaints. The ordinances should be as black and white as possible to prevent any gray area. They are trying to clean that up. There should be a presentation to explain that. Ms. Bratter's biggest complaint was having 2 heights on one lot.

DISCUSSION AND DECISION OF THE BOARD

Chairman Chellman commented that they have had a number of meetings to talk about this and Mr. Cracknell did make a presentation in detail at a prior meeting. This is not a last-minute proposal. By nature of any proposed zoning change a landowner's property will be affected. It is not uncommon for one landowner to bring their issue forward. These proposed changes are not trying to cater to a developer. People may not like it and the Board may not pass it but that is separate from catering to developers.

Vice Chairman Clark commented that he was in favor of tabling the height map changes and recommending the rest of the proposed changes on.

Mr. Mahanna commented that they should continue all of it to a future meeting.

Mr. Hewitt commented that they should have a separate meeting to address this, and it should include a new presentation.

City Council Representative Moreau commented that they should move to continue this to the August meeting and schedule a work session or special meeting on this before that as well.

Mr. Mahanna moved to continue this item to the August 18, 2022, Planning Board Meeting with a work session to be scheduled before that meeting, seconded by Mr. Almeida.

Mr. Almeida commented that it was worth repeating that they are not doing any of this in secret. Chairman Chellman agreed. They did not have a line item on this agenda for public input, but it was a continued public hearing. By definition that meant there would be public input.

Mr. Samonas commented that there have been valid points from the Board, Staff, and the public. They do need to consider the residual impact on neighborhoods and the timing of it all. When they have public input, they get information from a different lens. There could be another

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platform for a more dynamic public presentation and for the Board to receive the information. That should be considered.

The motion passed unanimously.

III. ADJOURNMENT

Chairman Chellman concluded this portion of the meeting at 6:58 p.m.

Respectfully submitted,

Becky Frey,
Secretary for the Planning Board