

MINUTES

ORDINANCE COMMITTEE MEETING

Meeting of November 17, 2020 – 8:00 a.m.

Zoom Webinar

Present: Committee Chair, Councilor Shepard; Councilors Hartwell and Wilder Cross.

Also present: Council Chairperson, Suzie Phillips; Town Manager, Ephrem Paraschak; Director of Community Development, Thomas Poirier; Town Planner; Town Planner, Carol Eyerman; Executive Assistant, Jessica Hughes.

1. **Consideration of the minutes of the October 20, 2020 meeting.**

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell and VOTED to accept the minutes of the October 20, 2020 meeting. Unanimous vote.

2. **Current Business**

- A. Review the Narragansett Mixed-Use District to allow for personal services and recommend amendments (referred by the Town Council on September 1, 2020).

Director of Community Development Tom Poirier referred to his memo provided/Attachment A and said that the committee discussed at the last meeting adding personal services uses to this area, but do it such a way that would be consistent with the Comprehensive Plan and not compete with the Village Center District. Staff proposes to add personal service uses as part of project with commercial uses and mixed-use, so someone that wants to do personal services would need to have some kind of residential component as part of their site or development. Staff also looked at limiting the square footage – the gross floor area to 1,500 square feet. Mr. Poirier reviewed that personal service uses would include a barber, hairdresser, beauty parlor, shoe repair, shoe shine, laundry, laundromat, dry cleaner, photographic studio and businesses providing similar services of a personal nature.

Mr. Poirier reviewed that the owner, Donna Foster, of the “Maid for You” business that is located on Narragansett Street is looking to add tanning booths somewhere in the commercial part of her building. There is a residential unit on the lot, so it would qualify under the proposed amendment. Staff would look at how large the space is that she is proposing to add the tanning booths – the maximum gross floor area of 1,500 sq. ft. should be sufficient for a tanning salon.

Councilor Wilder Cross agreed with the proposed amendment. Councilor Hartwell questioned if the 1,500 sq. ft. would be large enough, to which Mr. Poirier said that staff could look at the gross floor area sizes of laundry mats – specifically Reny’s Laundromat in Westbrook. Mr. Poirier and Councilor Hartwell pulled up the Reny’s Laundromat building on the GIS system and confirmed that it is roughly 2,100 sq. ft. A brief discussion ensued in which Councilor Shepard mentioned that there was a tanning salon adjacent to Mr. Bagel in Gorham. Mr. Poirier commented that this proposed amendment would be forwarded to the Planning Board for

public hearing after the Town Council reviews and approves at their Regular Town Council meeting.

The committee discussed and agreed that the cap on square feet should be increased from 1,500 to 2,000 square feet or less.

A motion was MADE by Councilor Wilder Cross, SECONDED by Councilor Hartwell and VOTED to refer the proposed amendment to the Narragansett Mixed-Use District to allow for personal services to the Town Council for review and consideration at their next meeting. Unanimous vote.

- B. Recommend regulating performance standards for Medical Marijuana Caregivers (referred by the Town Council on August 4, 2020).

Mr. Poirier referred to attachment B, which was the proposed performance standards and ordinance that he emailed to the committee after the last Ordinance Committee meeting held on October 20th, and said it took quite a bit of work for the Town's legal counsel - Mark Bower and himself to go through the Town's Marijuana ordinance and the Land Use Code. As it is currently proposed to be regulated in the Town per the language provided before the committee, Mr. Poirier said that there are two types of proposed uses: one is a home occupation use and the other is to allow larger facilities for medical marijuana businesses in the same districts as adult marijuana businesses. Mr. Poirier said that there are a number of residents in residential areas that currently grow medical marijuana for patients as the older state law prevented municipalities from implementing regulations. By allowing the home occupational use, the Town would then be allowed to add additional criteria for medical marijuana caregivers if the committee adopts the performance standards as part of this review. Under home occupation use, the individuals have to live on the premises. In the proposed amendments to the marijuana licensing ordinance, Mr. Poirier and Mark Bower mimicked the commercial marijuana standards, so if a medical marijuana caregiver is in the rural district and they ran a marijuana cultivation facility in an agricultural building, a medical marijuana business would also be allowed in the building. All the districts that allow commercial marijuana cultivation would now allow medical marijuana businesses. The proposed amendments to the marijuana ordinance would now also require any commercial and/or adult use marijuana cultivation facilities to meet the same requirements as medical marijuana businesses. Mr. Poirier said that the most significant changes to the ordinance were definitions added and changes to performance standards, so they covered everything.

Councilor Hartwell said that when the Town grants variances, the person who has the variance then records that with the registry of deeds. A discussion ensued in which Councilor Hartwell asked if there was anything pertaining this ordinance that the Town could record, so that when someone wants to buy a home, they could find through a title search if the home was used to grow marijuana as there could be potential issues with odor and possible overloading of electrical circuits. Mr. Poirier asked to clarify if Councilor Hartwell would like for a provision to be added in the licensing agreement for home occupation that would require the use to be recorded at the registry of deeds, to which he said "yes." Councilor Hartwell also said that he would prefer that the Town records it with the registry of deeds, so that the Town is not counting on the person that is granted the variance for the home occupation use to file it. Councilors Wilder Cross and Shepard agreed with Councilor Hartwell's proposed amendment if recommended by legal. Mr.

Poirier said that staff will verify with legal and add the provision if allowed. Mr. Poirier also said that the use is also recorded in the property file in the Code Office.

Mr. Poirier said that the proposed amendments to the ordinance and zoning changes would need to go the Planning Board after referred by the Town Council. He will forward the question to legal counsel and should receive an answer back before the next Town Council meeting. The provision requiring variances allowing home occupation use would then be added if recommended by legal. Mr. Poirier also said that a home occupation application would be recorded in the building file for a property.

A motion was MADE by Councilor Hartwell, SECONDED by Councilor Wilder Cross and VOTED to refer the proposed amendments to the Medical Marijuana Caregivers Ordinance and Marijuana Cultivation or Manufacturing Facility Licensing Ordinance to the Town Council for review and consideration at their next meeting. Unanimous vote.

- C. Review Article VI, Building Additions, in the Fire Suppression Ordinance, and bring back recommendations to the Council for review and approval (referred by the Town Council on October 6, 2020).

Town Manager Ephrem Paraschak reviewed the background on revisions. He said that the Town has had a Sprinkler Ordinance since 1987 and back in 2017, the Town began looking at modifying it, which turned into requiring all new construction and home remodels to be sprinkled. He further said that the ordinance has been working well for the most part. There was some push back from contractors when the last revisions to the ordinance were released in 2017. Where there has been some more recent resistance has been with the sprinkler requirement on modifications to existing structures and that those are tied to the Town valuation, which is out of balance as homes are not assessed at the full amount of what they are worth.

Mr. Paraschak said that Deputy Chief Fickett recently provided some information for former Councilor Marla Stelk's home upon her request as she was looking to put in an addition, which further illustrates the discrepancies with the valuation. The Town has her home valued in the 100k's and she received an appraisal of her home's value in the 300k's. This component in the ordinance is causing a lot of issues, especially in the current climate where people are staying home and want to put in additions or remodel their homes and the ordinance's criteria includes a skewed valuation where homes are valued at $\frac{1}{2}$ or $\frac{3}{4}$ of the real value due to the way the Town has it assessed. Mr. Paraschak believes that the corrections can be made with relatively minor changes to this ordinance if perhaps the committee wants to look at tying this to a square footage component rather than a value component since, which is more like a moving target. He personally thinks that the bar should be pretty low, meaning if someone buys a ranch-style home and completely guts the interior – that would be the time when the building should be sprinkled, not when someone just puts in a new kitchen, or breezeway, or not when they are finishing a basement. The ordinance and sprinkler requirement should be for when there is a total renovation or someone is putting in a massive addition.

Councilor Wilder Cross agreed that the component should be based on square footage since that would be a constant and would not change.

Regarding former Councilor Stelk's situation, Mr. Paraschak said that the addition she was looking to put on her house was almost half the size of her existing house. In her defense, he further said that the values were skewed since her house has not been assessed correctly. Mr. Paraschak said that if the committee still wants this provision in the ordinance, they would just need to consider how reaching the valuation component should be.

Councilor Shepard said that revising the ordinance to tie it to square footage versus valuation makes a lot of sense since trying to tie it to the value of a home is subject to change. To support his position with tying the component to square footage, he gave the example of residents that are aging in their home with second floor bedrooms that want to remodel and put a master bedroom and bathroom on the first floor. Regarding Section 1 in the ordinance, Councilor Shepard asked if the entire house needs to be sprinkled, or just the square footage being altered, added or renovated, to which Mr. Paraschak said "yes" – he believes so. Deputy Fire Chief Ken Fickett clarified that the intent of the section in question was to require the entire house to be sprinkled, not just the addition.

A discussion ensued in which Mr. Paraschak asked Deputy Chief Fickett to advise on a theoretic scenario: if a resident were to put a 1,000 square foot, one-story addition on the back of their house and only sprinkled the addition, is that really going to have any benefit if the side of the house that is not sprinkled catches fire, to which Deputy Chief Fickett said "no." Deputy Chief Fickett said that half of the house will burn down before the sprinkler system is activated on the sprinkled addition, so there really is no benefit to only sprinkling an addition to a home. Councilor Shepard's point was that Section 1 could be misconstrued as such. Councilor Hartwell said that the section in question is kind of ambiguous as it says that a sprinkler suppression system must be installed and it doesn't specify whether the addition or whole home needs to be sprinkled. The earlier sections talk about what triggers a sprinkler suppression system to be installed, but it doesn't limit it to what area has been altered. Mr. Paraschak said that dissecting this section is a good exercise in determining what the committee thinks is reasonable. He then asked the committee if they felt that he should sprinkle just a 1,000 square foot addition if he were to add it on the back of his house, or should he sprinkle the whole house. He gave another example of an older home in the village that is 1,200 square feet, and the homeowner adds another 1,200 square feet, should the homeowner sprinkle the entire house. Mr. Paraschak said that the committee needs to consider how much regulation the Town should or shouldn't require of residents with building sprinkler requirements. Councilor Hartwell commented that it would be helpful to look at some real numbers from people who install in these kinds of situations. He added that there is a fixed cost for the tank and pumps to feed the system, and there is the variable cost of the pipes and sprinkler heads. He questioned how much more of a cost is it to add additional pipes and sprinkler heads to the existing part of the structure if a homeowner already has to install the tank and pump. He further said that when referring to the intent of the ordinance, he felt that it was reasonable to require a sprinkler suppression system to be installed when someone is performing a significant remodel and the home is gutted down to the studs. He said that if the committee is going to amend the ordinance language to require an existing or entire home to be sprinkled when someone is adding on an addition to the existing home, he recommends waiting until the high-pressure "Plumas" pump system with smaller lines is available on the market since it is easier to install in existing homes, which shouldn't be much longer as it is in the process of being reviewed by the Underwriters Laboratory.

Town Planner Carol Eyerman posed the following example to the committee: if someone wanted to put an addition on a historic home, would the committee want to require them to drill through horse-hair plaster to install a sprinkler system. Councilor Shepard responded and said that he feels that the largest consideration comes back to the square footage; if by adding an addition you reach a specified square footage, it then triggers the sprinkler requirement, and adversely - if you don't reach the threshold, then you don't have to sprinkle. He further said that the committee needs to decide is what is a reasonable square footage compared to the existing structure. Regarding sprinkling renovations and the cost to sprinkle, Deputy Chief Fickett deduced three scenarios for the committee where construction triggered the sprinkler requirement, two of which were on Brackett Road; the first home on Brackett Road was a single-family ranch home that the owners put a second story on; the second home on Brackett Road was a foreclosed home that was completely gutted to take care of mold issues; lastly, a home on Weeks Road had an addition of a two-car garage added with a new second story living space over the garage that nearly doubled the size of the home. Gorham Fire staff has cost figures on the installation of sprinklers and will give it to the committee for more thorough evaluation. Deputy Chief Fickett added that two of the three property owners for aforementioned scenarios agreed to sprinkle the structures without any hesitation; however, the third owner initially agreed and then began to challenge the requirement.

Councilor Wilder Cross commented that she agrees with Councilor Shepard that Section 1 reads as though only the addition needs to be sprinkled although she understands that the rest of the house should be sprinkled as well. She worries about the overregulation and feels that the ordinance should be based on the size of the addition, whether that is determined by the square footage or some other component. She feels that any amendments will require further some wordsmithing and investigation. She does not feel that if someone is enlarging a kitchen or dining room, it should not require a whole house sprinkler system. She is glad that there is another more cost-effective system that will soon be available, at which time the Town could then require more strict regulations without ruining some family's ability to stay in their home.

Mr. Paraschak commented that this discussion has been mainly focused on additions, but in the scenario of an older home being renovated – the renovations alone would not trigger the percentage of assessed value, which doesn't pass the straight-face test. He further said that because there are people that have reached out to the Town (the Code Office has received approximately one inquiry every other week), he suggests that staff provide the data for the committee's review that would include the size of the existing structure, sprinkler requirements for each scenario and the costs entailed, so as to not delay the committee's decision with the amendment and further delay homeowners from moving forward with renovations and additions. Councilor Hartwell added that he would like to see an example of the cost for an addition when it triggers the sprinkler requirement, as well as the additional cost to sprinkle the entire existing structure. He would like to continue to have a component in the ordinance that triggers the sprinkler requirement based on the addition being a certain size. If there is an existing sprinkler system in the addition and the homeowners go back to renovate the rest of the house, then they should be required to sprinkle the rest of the house at that time, unless the cost of installing a sprinkler system is less expensive than the committee is aware of. Councilor Hartwell further said that he likes the sprinkler requirement being tied to assessed value although the Town valuation is currently skewed; however, he believes that a simple fix to that is to allow a property owner to have an appraisal from a licensed appraiser in the State of Maine, value established from a realtor website such as Zillow.com or Realtor.com or a fair

market analysis from a licensed realtor in the State of Maine in lieu of using the assessed value. A discussion ensued between Mr. Paraschak and Deputy Chief Fickett regarding Councilor Hartwell's suggestion. Mr. Paraschak suggested that the committee consider recommending the proposed amendment to the ordinance to the Town Council to allow homeowners to obtain an appraisal from a licensed appraiser in the State of Maine as a stop gap measure that would allow homeowners to move forward with renovations. The committee could then review and refine the remaining language as needed at a later date. Deputy Chief Fickett agreed that the additional provision would solve many of the issues where home valuations are significantly skewed and not applicable for the purpose of this section in the ordinance. Mr. Paraschak also noted that there is no appeal process in the ordinance where an exemption can be granted by the Fire Chief or Town Council, which has been frustrating folks. Councilor Wilder Cross agreed that the committee should do something for the people that are waiting to renovate their homes and the issue could be alleviated by amending the ordinance to allow an appraisal from a license appraiser.

Mr. Paraschak said that if the committee is considering sending the revised component to the Town Council, he would recommend adding "or an appraisal from a licensed appraiser in the State of Maine" after the reference of assessment records by the Town of Gorham on page four in Section 1 A of the ordinance, which would allow the homeowner flexibility between using the assessed value or an appraisal. Councilor Hartwell added that he supports allowing a homeowner to use an online market value for their home from a site such as Zillow in lieu of obtaining a costly appraisal from a licensed appraiser in the State of Maine. Mr. Paraschak recommended carefully identifying the online databases in the ordinance to prevent homeowners obtaining unrealistic fair market values from a site with skewed market figures, and Councilor Hartwell recommended listing a few such as Realtor.com, Zillow or Redfin. Mr. Poirier suggested that homeowners could also obtain an appraised value from a licensed realtor. Councilor Hartwell recommended staff reach out to former Town Councilor Shonn Moulton who became a license realtor and is now a licensed appraiser, so he may have good insight on the best way to do this. Councilor Shepard asked for staff to look into Councilor Hartwell's suggestion, so the proposed amendments could be reviewed at the next Town Council meeting.

A motion was MADE by Councilor Hartwell, SECONDED by Councilor Wilder Cross and VOTED to refer the recommended amendments to Article VI, Building Additions, in the Fire Suppression Ordinance to the Town Council for review and consideration at their next meeting. Unanimous vote.

3. **Items Referred by Town Council to Committee for Future Meetings/Action**

- A. Review Chapter 2, Section 2-1, Subsection H, Noise Abatement, of the LUDC, to provide an exemption for well drillers during a time of Severe Drought; and forward recommendations back to the Council for review and approval (referred by the Town Council on October 6, 2020).
- B. Review provisions in the LUDC that would require surveyors to identify setbacks to ensure that structures are within the required setback zone defined in the code and bring back recommendations to the Council for review and approval (referred by the Town Council on October 6, 2020).

- C. Review mixed-use in the area of Mosher's Corner as called for by the Comprehensive Plan and provide recommendations to the Town Council (referred by the Town Council on November 10, 2020).
- D. Review expansion of the village areas as called for by the Comprehensive Plan and provide recommendations to the Town Council (referred by the Town Council on November 10, 2020).
- E. Review requirements and restrictions in place for the installation of commercial and residential solar systems and bring back recommendations to the Council for revisions in ordinances to help encourage installation of such systems (referred by the Town Council on December 1, 2020).

4. **Other Business**

Councilor Hartwell mentioned that he will be sponsoring an item on the agenda for the next Town Council meeting to look at the requirements that Gorham has versus other towns regarding residential solar projects.

5. **Schedule next meeting and discuss agenda items for next meeting.**

The next meeting of the committee is scheduled for Tuesday, December 15, 2020 at 8:00 a.m. The following items will be discussed at the next meeting:

- A. Review Chapter 2, Section 2-1, Subsection H, Noise Abatement, of the LUDC, to provide an exemption for well drillers during a time of Severe Drought; and forward recommendations back to the Council for review and approval (referred by the Town Council on October 6, 2020).
- B. Review provisions in the LUDC that would require surveyors to identify setbacks to ensure that structures are within the required setback zone defined in the code and bring back recommendations to the Council for review and approval (referred by the Town Council on October 6, 2020).
- C. Review mixed-use in the area of Mosher's Corner as called for by the Comprehensive Plan and provide recommendations to the Town Council (referred by the Town Council on November 10, 2020).

6. **Recent Items Sent to Town Council with Committee Recommendations**

- A. Review the Narragansett Mixed-Use District to allow for personal services and recommend amendments (referred by the Town Council on September 1, 2020).

The Town Council at their December 1, 2020 meeting referred the above item to the Planning Board for public hearing and recommendation. Unanimous vote.

- B. Recommend regulating performance standards for Medical Marijuana Caregivers (referred by the Town Council on August 4, 2020).

The Town Council at their December 1, 2020 meeting held a public hearing, in which there were no comments from the public, and voted to approve the proposed amendments to the Marijuana

Cultivation or Manufacturing Facility License Ordinance as recommended by the Ordinance Committee. Unanimous vote.

- C. Review Article VI, Building Additions, in the Fire Suppression Ordinance, and bring back recommendations to the Council for review and approval (referred by the Town Council on October 6, 2020).

The Town Council at their December 1, 2020 meeting held a public hearing, in which there were no public comments, and voted to approve the proposed amendments to the item above as recommended by the Ordinance Committee. Unanimous vote.

7. **Adjournment**

There being no further business, a motion was MADE by Councilor Wilder Cross and SECONDED by Councilor Hartwell and VOTED to adjourn. Time of adjournment: 9:07am.

Respectfully submitted,

Jessica R. Hughes, Executive Assistant