

Unapproved

June 11, 2008 Joint Meeting, Mason Board of Selectmen and Mason Planning Board

In attendance: Mark Richardson (Selectman), Nancy Richards (Selectman), Chris Guiry (Selectman chair, Planning Board Ex-officio), Bruce Mann (PB), Dotsie Millbrandt (PB), Linda Cotter-Cranston (PB alternate), Mark McDonald (PB chair, arrived 8 pm)

Absent: Joe McGuire (PB alternate), Pam Lassen (PB).

Bruce Mann is chairing the meeting tonight, because Mark will be delayed.

Call to order: 7:45 pm

At the March 11, 2008 town meeting, the voters approved a citizen petition amendment to the Town of Mason Planning Ordinance, which is our zoning ordinance. It changes the definition of lots in the GRAF zone to: "...A conventional lot shall be 350 feet of frontage on a class V highway or better and the minimum lot area shall be 174,240 sq. ft. (4 acres) per dwelling unit."

Silas Little, Esq, Town Attorney:

Vachon vs Concord: A court decision stated that a change in a zoning ordinance can supercede a previous approval granted by the planning board.

This decision caused a certain amount of turmoil in affected towns and cities. As a result, the legislature adopted a 4 year exemption from changes in zoning ordinances (RSA 639:40). Lots receiving PB approval in the 4 years preceding the zoning change may be exempt from the effects of the change. However, for this exemption to be applied to a lot, substantial improvement must have commenced on the property within one year of PB approval. "Substantial improvement" means starting work on a road on a subdivision that contains a new road or road section, or building a driveway or house on each lot of a subdivision that does not contain a new road.

When Mason's zoning amendment took effect after the March 2008 town meeting, a number of lots in town that previously conformed to the zoning ordinance became non-conforming. These are lots in the GRAF zone that are between 3 and 4 acres in size, and/or have between 250 and 350 feet frontage.

Unless a lot is exempt per RSA 639:40, if an owner of a single lot that becomes non-conforming due a zoning ordinance change wants a building permit, the owner must go to the ZBA for a variance. If an owner has two or more adjoining non-conforming lots, not yet improved, the ZBA should require the owner to make lot lines adjustments so that the lots meet the new zoning requirements. This change could reduce the number of lots, depending on the size and configuration of the subdivision.

The board of selectmen and the planning board would like to amend the Town of Mason zoning ordinance. The purpose will be to clarify the status of lots approved between the time the planning board was created, March 1967, and the time that zoning requirements were changed, March 11, 2008.

Lots in town fall into one of three categories:

- Previously non-conforming lots: These are lots that were non-conforming in size or frontage prior to adoption of the March 11, 2008 amendment. These lots remain non-conforming. An owner will need to obtain a variance from the ZBA in order to get a building permit.
- Previously conforming, now non-conforming lots: These are lots in the GRAF zone that were conforming prior to adoption of the March 11, 2008 amendment, but are no longer conforming. As the zoning ordinance currently stands, owners of these lots cannot obtain a building permit without a variance from the ZBA. The board of selectmen and the planning board would like to amend the Town of Mason zoning ordinance to state explicitly that these lots will not require a variance from the ZBA for single family residential use.
- Previously conforming, still conforming lots: These are lots which were previously conforming to the zoning ordinance and are still conforming. No variance for lot size or frontage is needed from the ZBA to obtain a building permit.

Tasks needed to get an amendment ready in time for the special town meeting in September:

- Determine the intent of the March amendment
- Determine the wording for the amendment
- Determine the date for the first public hearing, allowing at least 10 days (not including day of posting) for publishing notices
- Determine the date for a possible second public hearing, should one be required, allowing at least 10 days for publishing notices
- Publish and post notices at least 10 days before the public hearing
- Hold the hearing
 - If the hearing results in a substantial change to the amendment, a second hearing is required.
 - Publish and post notices at least 10 days before the public hearing
 - Hold the hearing
- The PB must vote on the final wording at the public hearing
- The final wording must be given to the town clerk 5 weeks before the town meeting
- The amendment is voted on at the town meeting by written ballot (during the day)

The board would like to put an article in the Grapevine explaining the situation and the proposed solution. Sy will send wording for the proposed amendment. Dotsie will write up the Grapevine article. The board will review the article at the June 25 meeting.

Adjourn: Bruce makes a motion to adjourn. Linda seconds. Meeting is adjourned at 9:20.