



Planning & Development
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Memo

Date: February 20, 2020

To: Planning Board

From: Planning Office

Re: Ordinance Change Proposals

Proposal: **Revise 145-55. Accessory Dwelling Units**

Issue 1: The limitation of 600 sf of net habitable floor area does not accommodate a typical footprint above a two car garage (26'x30'). Increasing the area limitation to 800 sf would allow for easier construction. See proposed change:

(2) The accessory dwelling unit shall contain no more than three rooms and a bathroom and shall not exceed ~~600~~ 800 square feet of net habitable floor area;

Issue 2: Units are not allowed in the Res B, Res D or Beach Business Districts where many such units already exist and are considered nonconforming. See proposed change to allow in all Districts:

*§ 145-55 **Accessory dwelling units.***

A. One accessory dwelling unit shall be permitted within an owner-occupied one-family dwelling in all districts. ~~except the Residential B, Residential D and the Beach Business Districts.~~

Issue 3: Parking for rental units is becoming a problem throughout the Town. Approval of accessory units should include dedicated parking accommodations on-site.

See proposed additional requirement:

(5) The accessory dwelling unit shall be located in the same building as the principal dwelling unit.

(6) Two parking spaces meeting the dimensional requirements of 145-39.C(1) shall be provided for the accessory dwelling unit and shall be located on the lot in addition to the two spaces required for the owner-occupied dwelling and any other spaces required for uses located on the lot.

Proposals:

1. Revise 202-6 Preapplication to add paragraph F concerning existing approval defaults and add a definition of "default"

Issue: The subdivision Ordinance does not currently address defaults on previously approved subdivisions by an applicant, owner or developer until the end of the approval process. This proposed addition would allow the Planning Board to address this issue at the start of the application process.

2. Revisions to change references from site inspection to site visit.

Issue: The term "inspections" implies qualifications and licenses and potential liabilities.

3. Revisions to eliminate the requirement to provide a mylar and require submissions to also be provided in a digital (pdf) form.

Issue: State has been changed to allow paper plans to be recorded. All plans are now scanned as an archivable form. Applications are needed in a digital form to be posted on the Town website and file on the Town servers.

Chapter 202. Subdivision of Land

§ 202-6. Preapplication.

A. Procedure:

- (1) Applicant presentation and submission of sketch plans.
- (2) Question and answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.
- (3) Scheduling of on-site ~~inspection~~ visit.

B. Submission. The preapplication sketch plan shall show, in simple sketch form, the proposed layout of streets, lots and other features in relation to existing conditions. The sketch plan, which may be a freehand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's map(s) on which the land is located. The sketch plan shall be accompanied by a copy of a portion of the USGS topographic map of the area showing the outline of the proposed subdivision, unless the proposed subdivision is less than 10 acres in size. The sketch plan shall also be accompanied by a list of names and addresses of abutters to the proposed project and certification that notices describing the proposed project have been sent or delivered by the applicant to the abutters. The addresses of these abutters shall be obtained from the Town of Wells Tax Assessor's records, and the notice and certification form shall be supplied by the Office of Planning and Development.

[Amended 3-24-1997]

C. Contour interval and on-site ~~inspection~~ visit. Within 30 days, the Board shall hold an on-site ~~inspection~~ visit of the property and determine and inform the applicant in writing of the required contour interval on the preliminary plan, or final plan in the case of a minor

subdivision. However no on-site ~~inspections~~ visits shall be held during the months of January, February or March or when the ground is covered with snow.

D. Rights not vested. The submittal or review of the preapplication sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of 1 M.R.S.A. § 302.

F. The Planning Board may reject an application if the applicant, owner or developer has been determined to be default or violation of a previously approved subdivision plan or site plan. The applicant, owner or developer shall include but is not limited to any partnerships or corporations that are represented by or include the same person.

§ 202-7. Minor subdivisions.

A. General. The Board may require, where it deems it necessary for the protection of public health, safety and welfare, that a minor subdivision comply with all or any of the submission requirements for a major subdivision.

B. Procedure.

(1) Within six months after the on-site ~~inspection~~ visit by the Board, the subdivider shall submit an application for approval of a final plan at least 10 days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the sketch plan to the Board. The final plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board. The Planning Board may reject an application if the applicant, owner or developer has been determined to be default or violation of a previously approved subdivision plan or site plan. The applicant, owner or developer shall include but is not limited to any partnerships or corporations that are represented by or include the same person.

§ 202-8. Preliminary plan for major subdivision.

A. Procedure.

(1) Within six months after the on-site ~~inspection~~ visit by the Board, the subdivider shall submit an application for approval of a preliminary plan at least 10 days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the sketch plan to the Board. The preliminary plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board. The Planning Board may reject an application if the applicant, owner or developer has been determined to be default or violation of a previously approved subdivision plan or site plan. The applicant, owner or developer shall include but is not limited to any partnerships or corporations that are represented by or include the same person.

B. Submissions.

(2) Preliminary plan. The preliminary plan shall be submitted in three full size copies of one or more maps or drawings and a digital image of the plans which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than 100 feet to the inch. The Board may allow plans for subdivisions containing more than 100 acres to be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can easily be read. In addition, the applicant shall submit to the Office of Planning and Development 11 copies of the plan(s) reduced to a size of 11 inches by

17 inches and all accompanying information assembled into a booklet and a digital image no less than 10 days prior to the meeting. The following information shall either be shown on the preliminary plan or accompany the application for preliminary approval:[Amended 4-12-1999]

(r) A copy of that portion of the county soil survey covering the subdivision. When the medium-intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a report by a registered licensed soil scientist indicating the suitability of soil conditions for those uses.

(t) A hydrogeologic assessment prepared by a certified licensed geologist or registered professional engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and:

§ 202-9. Final plan for major subdivision.

A. Procedure.

(1) The subdivider shall, within six months after the approval of the preliminary plan, file with the Board an application for approval of the final plan at least 10 days prior to a scheduled meeting of the Board. If the application for the final plan is not submitted within six months after preliminary plan approval, the Board may refuse without prejudice to act on the final plan and require resubmission of the preliminary plan. The final plan shall approximate the layout shown on the preliminary plan, plus any recommendations made by the Board. *The Planning Board may reject an application if the applicant, owner or developer has been determined to be default or violation of a previously approved subdivision plan or site plan. The applicant, owner or developer shall include but is not limited to any partnerships or corporations that are represented by or include the same person.*

B. Submissions. The final plan shall consist of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 75 acres may be drawn at a scale of not more than 200 feet to the inch. Plans shall be no larger than 24 inches by 36 inches in size and shall have a margin of two inches outside of the border line on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Board. ~~One reproducible, stable-based transparent original and t~~Three full size copies of the plans and a digital image of the plans shall be submitted. In addition, the applicant shall submit 11 copies of the final plan, reduced to a size of 11 inches by 17 inches, and copies of all accompanying information and a digital image of the information to the Office of Planning and Development no less than 10 days prior to the meeting. The application for approval of the final plan shall include the following information: [Amended 4-13-1999]

(15) A stormwater management plan, prepared by a registered licensed professional engineer in accordance with the most recent edition of Stormwater Management For Maine: BMPS Technical Design Manual, published by the Maine Department of Environmental Protection, 2006. Another methodology may be used if the applicant can demonstrate it is equally or more applicable to the site. [Amended 4-27-2007]

C. Final approval and filing.

(1) No plan shall be approved by the Planning Board as long as ~~the subdivider is in default on a previously approved plan.~~ the applicant, owner or

developer has been determined to be default or violation of a previously approved subdivision plan or site plan. The applicant, owner or developer shall include but is not limited to any partnerships or corporations that are represented by or include the same person.

Proposal:

Revise 202-4 Definition of Comprehensive Plan.

Issue: The current definition is specific to the 1991 Plan which has been revised at least twice.

§ 202-4. Definitions.

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined in Chapter 145, Land Use, of the Wells Municipal Code, and those definitions are incorporated herein by this reference as follows:

COMPREHENSIVE PLAN

Any part or element of or amendment to the overall plan or policy for development of the municipality as defined in 30-A M.R.S.A. § 4301 which was adopted by the Town of Wells in November 1991.

DEFAULT

The failure to adhere to the requirements or conditions of approval on a plan or Findings of Fact.

DRIVEWAY

A vehicular accessway serving two dwelling units or fewer.

FINAL PLAN

The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

Proposal: Revise 202-11.B to specify how Subdivision violations can be addressed.

Issue: The subdivision Ordinance does not currently address.

Chapter 202. Subdivision of Land

§ 202-11. Inspections; violations and penalties.

B. Violations, penalties and enforcement.

- (1) No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with these regulations.
- (2) No person may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- (3) No person may convey, offer or agree to convey any land in an approved subdivision which is not shown on the final plan as a separate lot.
- (4) Any person who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished in accordance with the provisions of 30-A M.R.S.A. § 4452.
- (5) No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.
- (6) Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots or construction of buildings which require a final plan approved as provided in these regulations and recorded in the Registry of Deeds.
- (7) No lot or unit in a subdivision may be sold, leased or otherwise conveyed before the street upon which the lot or the lot containing the unit fronts is completed up to and including the hot top base course of pavement, in accordance with these regulations, up to and including the entire frontage of the lot, and a performance guaranty acceptable to the Board of Selectmen is posted for the completion of the street with the Town of Wells.
- (8) Failure to comply with any conditions of approval shall be construed to be a default and a violation of this article and Chapter 145 and shall be grounds for revoking the approved development plan, initiating legal proceedings to enjoin construction development or any specific activity violating the conditions of plan approval or applying the legal penalties detailed in § 145-64. Determination of failure to comply will be made by the Code Enforcement Office. The Code Enforcement Office shall consult with the authorized inspector and the Town Planning Office as applicable to the violation determination.
- (9) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the owner to immediately install sedimentation control devices on his lot and to remove sediment from all adjoining surfaces, drainage systems and watercourses and to repair any drainage, at his expense, as quickly as possible. Any landowner that fails to do so within two weeks after official written notification by the Code Enforcement Officer or authorized Inspector of the Town shall be penalized as set forth in § 145-64 which states, "Any person, firm or corporation, including but not limited to a landowner, his agent or a contractor, who or which orders or conducts any activity in violation of the provisions of this chapter shall be penalized as set forth in 30-A M.R.S.A. § 4452, except that the penalty for any person, firm or corporation who or which violates any provision of § 145-45 of this chapter shall not exceed \$1,000 for the first offense."
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The Planning Board should consider the proposed changes and make any recommendations for changes and if appropriate, vote to forward to the Board of Selectmen for consideration or continue to workshop the ordinance changes for a future Planning Board meeting.