Joint Topsfield Planning Board & Zoning Board of Appeals
September 4, 2007

Planning Board Chairman Martha Morrison called the joint meeting to order at 8:00 PM. Planning Board members present were Martha Morrison, Janice Ablon, Gregor Smith, Ian deBuy Wenniger, Robert Winship. Zoning Board of Appeals members present were Robert Moriarty, Scott Dow, Kristin Palace, Tony Penta, Lisa Taylor. Roberta Knight, Community Development Coordinator was also present.

Visitors: Alice Sheridan, Heidi Fox, Glenn Clohecy, Chief Ronald Giovannacci, Holger Luther, Phil Knowles, Joe Geller, Maureen Taylor, Scott Taylor, Ara Aftandilian.

Chairman Morrison initiated the discussion by noting that a number of zoning issues have come to the Planning Board for consideration. Because the Zoning Board is directly involved with matters of non-conforming properties and special permits, the Planning Board believes that the Zoning Board should be involved in any discussions relative to said proposals that would result in revisions to the Topsfield Zoning By-laws.

Building Inspector Recommendations: Inspector of Buildings reviewed his list of proposed revisions to the By-law as follows:

- Height Definition: Recommended change to be consistent with State Building Code
- Multi-Family Dwelling: Recommended change to be consistent with State Building Code
- Sign By-law: Renumber Sections: 13.5.B.2 to 13.5.B.3 and 13.5.B.3 to 13.5.B.2
- Zoning Administration: Delegate administrative powers to Building Inspector concerning variances for non-conforming lots where no problem with set backs or other land use regulations i.e. addition of garage, porch, deck.

It was the consensus of the ZBA members that the "Multi-Family Dwelling" definition not be changed. The members had no problem with the renumbering of the Sign By-law, and discussed the "Height" definition with Mr. Clohecy. It was agreed that the "Height" definition should be looked at and requested clarification of the definition of "grade plane" referenced in the Building Code's definition. The Zoning Board members were not in favor of granting the Inspector of Buildings decision powers relative to non-conforming lots since the current process protects the public interest.

Section 5.06 Violations: Chairman Morrison noted that the Violations Section of the By-law requires a legal review relative to criminal and non-criminal dispositions. It was the consensus of the members to make a request to the Board of Selectmen that a legal opinion be sought from Town Counsel.

The members then discussed the following agenda items: (See attachment for specific outline)

- Ipswich Road-Route 1 Intersection
- Small Subdivisions
- Business Highway District
- Agricultural By-laws

Small Subdivisions: The members discussed the issues of public safety and maintenance relative to reducing the size of the "roadway" for small two to three lot subdivisions as well as the issue of private versus public roadways. Chief Giovannacci noted that his major concern was access for more than one vehicle during an emergency response. Small drives get clogged quickly causing problems for access by the larger fire vehicles i.e. ladder truck and pumper. Chairman Morrison noted that the Planning Board did not want to create dangerous, hazardous situations. There was no conclusion on what is the best way to handle roadways for small subdivisions. Further discussion is required.

Ipswich Road – Route 1 Intersection: Zoning Board Chairman Bob Moriarty stated that he believed that there is a need to do something on the westerly side of Route 1 (in area surrounding Parsons Corner) as well as the easterly side. He noted that the following items should be addressed in a zoning review of the area:

- Should it be done, if yes then
- Determine appropriate uses for the area
- Review the appropriateness of the current district boundaries
- Establish development standards

It was the consensus of the meeting that the Master Planning Committee should move forward to develop new zoning recommendations for the intersection that would carefully define what could be built within the context of traffic and public safety considerations.

Business Highway District: It was the consensus of the meeting that the Planning Board would move forward to develop standards for the district as well as review the existing uses and develop comprehensive recommendations for the district.

Agricultural By-laws: The members discussed the issue that the existing uses in the IRA and ORA districts are in conflict with Massachusetts General Law relative to the State's definition as to what is an agricultural use versus the Town's definition of agricultural uses. The State's definition is much broader and includes commercial uses such as a boarding stable that would be excluded under the Town's by-law. It was the consensus of the meeting to bring the by-law into compliance with Massachusetts General Law and request a legal opinion from Town Counsel.

The meeting was adjourned at 10:00 PM.

Respectfully submitted,
Roberta M. Knight
Community Development Coordinator

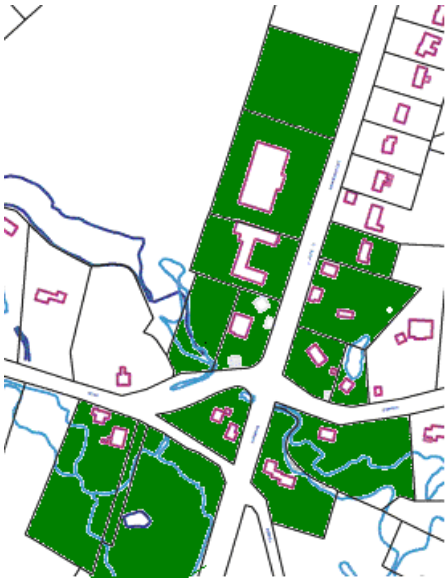
Referenced Attachment

Joint Planning Board and Zoning Board Meeting
Background Information

A number of zoning issues have come to the Planning Board for consideration. Because the ZBA is directly involved with matters of non-conforming properties and special permits, the Planning Board believes that the ZBA should be involved in discussions relative to the proposals and problems below.

I. Ipswich Road-Route 1 Intersection

A. Currently zoned Residential.
B. Proposal to rezone as a commercial district.
C. Reasons for a change
This intersection area is almost entirely non-conforming in that it is residentially zoned. Development takes place under the non-conforming property regulations. Permitting the commercial uses and sizes of structures that exist in the area and excluding uses that are unacceptable such as high traffic volume establishments would bring this area into conformity and shape development in a more predictable manner. Property owners could improve their properties within the regulations governing the area.
D. Reasons against
The ZBA can control development through powers of "findings" and "special permits."



New Route 1 Business District
at Route 1 and Ipswich Road

II. Small Subdivisions

A. Two and three lot subdivisions.
B. Standard subdivision regulations are geared to larger scale projects.
C. Application of Low Impact Development Guidelines.
D. Private vs. public roads.

III. Business Highway District

A. Zoning By-law lacks any description and standards for district.
B. Uses.
C. Boundaries

IV. Agricultural By-laws

A. Some existing uses appear to be in conflict with MGL..
   1. MGL

Chapter 40A: Section 3. Subjects which zoning may not regulate; exemptions; public hearings; temporary manufactured home residences

No zoning ordinance or by-law shall regulate or restrict the use of materials, or methods of construction of structures regulated by the state building code, nor shall any such ordinance or by-law prohibit, unreasonably regulate, or require a special permit for the use of land for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, nor prohibit, unreasonably regulate or require a special permit for the use, expansion, reconstruction or construction of structures thereon for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, including those facilities for the sale of produce, wine and dairy products, provided that either during the months of June, July, August and September of each year or during the harvest season of the primary crop raised on land of the owner or lessee, 25 per cent of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located, or at least 25 per cent of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located and at least an additional 50 per cent of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land other than that on which the facility is located, used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located or by another, except that all such activities may be limited to parcels of 5 acres or more in area not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture. For such purposes, land divided by a public or private way or a waterway shall be construed as 1 parcel. No zoning ordinance or by-law shall exempt land or structures from flood plain or wetlands regulations established pursuant to the General Laws. For the purposes of this section, the term "agriculture" shall be as defined in section 1A of chapter 128, and the term horticulture shall include the growing and keeping of nursery stock and the sale thereof. Said nursery stock shall be considered to be produced by the owner or lessee of the land if it is nourished, maintained and managed while on the premises.

Chapter 128: Section 1A. Farming, agriculture, farmer; definitions

Section 1A. “Farming” or “agriculture” shall include farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.

   2. Topsfield Zoning By-laws

Permitted Uses		ORA	IRA	CR	BV	BH	BP
3.	**Agriculture**						
3.1	Agricultural, horticultural, viticultural and floricultural production	P	P	P	P	P	P
3.2	Non-commercial forestry	P	P	P	P	P	P
3.3	Commercial forestry (excluding milling)	S	S	NP	NP	S	S
3.4	Farm Stand (on property of less than	P	P	S^2	S^2	S^2	P

	5 acres)						
3.5	Farm Stand (on property of more than 5 acres)	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]
3.6	Farmers Markets	S	S	P	P	P	S
3.7	Home farm products stand	P	P	P	P	NA	P
3.8	Raising of livestock for commercial use	S	S	S	NP	NP	S
3.9	Commercial kennels, stables or veterinary hospital	S	NP	NP	NP	P	S

B. Use of small lots for agricultural purposes.
C. Agricultural Preservation By-laws.